

**STATE OF NEW HAMPSHIRE**  
**SITE EVALUATION COMMITTEE**

**September 17, 2018 - 9:00 a.m.**  
49 Donovan Street  
Concord, New Hampshire

**DAY 3**  
**Morning Session ONLY**

*{Electronically filed with SEC 9-27-18}*

**IN RE:       SEC DOCKET NO. 2015-04**  
**Application of Public**  
**Service of New Hampshire**  
**d/b/a Eversource**  
**Energy for Certificate**  
**of Site and Facility**  
**(Adjudicatory Hearing)**

**PRESENT FOR SUBCOMMITTEE/SITE EVALUATION COMMITTEE:**

|  |                         |
|--|-------------------------|
| <b>Patricia Weathersby</b><br><i>(Presiding Officer)</i> | Public Member           |
| <b>David Shulock</b>                                     | Public Utilities Comm.  |
| <b>Charles Schmidt, Admin.</b>                           | Dept. of Transportation |
| <b>Dir. Christopher Way</b>                              | Div. of Economic Dev.   |
| <b>Michael Fitzgerald</b>                                | Dept. of Env. Services  |
| <b>Susan Duprey</b>                                      | Public Member           |

***ALSO PRESENT FOR THE SEC:***

|  |                 |
|--|-----------------|
| Michael J. Iacopino, Esq.                        | Counsel for SEC |
| Iryna Dore, Esq.                                 | Counsel for SEC |
| <i>(Brennan, Lenehan, Iacopino &amp; Hickey)</i> |                 |

Pamela G. Monroe, SEC Administrator

*(No Appearances Taken)*

**COURT REPORTER: Cynthia Foster, LCR No. 14**

I N D E X

WITNESS PANEL

LYNN FRAZIER

(Resumed)

NICHOLAS STRATER

DAVID PLANTE

KENNETH BOWES

MARC DODEMAN

WILLIAM WALL

|                                     |    |
|-------------------------------------|----|
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**P R O C E E D I N G S**

**(Hearing resumed at 9:00 a.m.)**

PRESIDING OFFICER WEATHERSBY: Good morning, everyone. Welcome back. This hearing is for the Seacoast Reliability Project. We're going to take up where we left over a week or so ago with the Construction Panel and Durham Historic Association. Ms. Mackie, you may proceed.

MS. MACKIE: Thank you.

**CROSS-EXAMINATION**

**BY MS. MACKIE:**

Q Good morning. I'm Janet Mackie representing the Durham Historic Association.

My first question has to do with underground utility lines. I understand there's, I don't know the current status of it, but there's an Eversource project, the Mystic to Woburn Line Project in Massachusetts. This is an underground line of 7.2 miles through Boston, Somerville, Medford, Winchester, Everett and Woburn. The Project cost is estimated to be \$70 million as compared with our \$77 million Project at the SRP.

1           Can you tell me why they're able to bury  
2           7.2 miles of utility lines down there, but it's  
3           too expensive up here? Or what are the  
4           differences in the different projects?

5       A   (Bowes) I will try to, based on my limited  
6           energy of that Project. I do know that it was  
7           consistent with the infrastructure that's  
8           already in place around the Greater Boston area  
9           which means that there are not sufficient  
10          overhead transmission rights-of-way. So in this  
11          case the Applicant, NSTAR Electric, proposed an  
12          all-underground solution with alternate routes  
13          to satisfy the need.

14                It is a Reliability Project similar to the  
15                Seacoast Reliability Project. It has an  
16                inservice date and was actually, you know, one  
17                of the suite of projects that also had a leg  
18                into New Hampshire, the MVRP Project that Mr.  
19                Plante was a Project manager on as part of that  
20                suite of the Greater Boston Reliability  
21                Projects.

22                The costs, I think, is where you were going  
23                as well. First, you know, if there are no  
24                overhead transmission rights-of-way, we

1 typically go to the next alternative which is  
2 other routes whether it's along the railroad  
3 track, in this case, because of the two  
4 connection points needed, had to be an all  
5 underground solution. The cost of approximately  
6 \$10 million a mile I think is the same cost  
7 estimate we've used in this Project when asked  
8 either in Interrogatories or in public meetings.  
9 That's a good proxy as a number, without knowing  
10 the unique conditions that are involved.

11 In this case, the under water portion would  
12 be a little bit more expensive than that, and  
13 some of the off-road installations for Seacoast  
14 would probably be a little bit less than that  
15 where you're not in the public way with other  
16 utilities.

17 But in general, I think the \$10 million per  
18 mile is a valid proxy as an estimate. It's the  
19 same number we used for Seacoast Reliability.

20 Q So our Project is 14 miles roughly?

21 A (Bowes) 13 miles.

22 Q 13.9?

23 A (Bowes) No. 12.9.

24 Q 12.9. Okay. My next question has to do with

1 pole pads. I understand, or I guess I want to  
2 ask a question. Pole pads are usually required  
3 whenever there's a dead end pole or an angle  
4 pole; is that correct?

5 A (Plante) So I think you're referring to the  
6 locations on our engineering or environmental  
7 drawings where we have elongated work pads, and  
8 those are indeed established to provide  
9 sufficient room for the conductor installation  
10 equipment to set up. Because of the angle that  
11 the, that the wire has to come off the top of  
12 the pole to get into the pulling equipment where  
13 the reel of would wire or the takeup reel are  
14 positioned, it's necessary to have distance from  
15 the structure itself. So yes, they are  
16 dimensionally larger in length.

17 Q Right. Well, my question is the siting of the  
18 pole pads, are they required whenever there's an  
19 angle from one pole to the next in the cable?

20 A (Plante) No. We are able to pull conductor  
21 through what we call deflection angles in the  
22 alignment of the transmission line, with some  
23 limitations. Obviously, the greater the change  
24 in angle of the line, the greater the horizontal

1 force at the top of the pole. So to the extent  
2 that we have the ability to find, not find but  
3 establish appropriate pulling areas near really  
4 heavy angles we would try to do that. However,  
5 small angles, you know, up to 30, 35, 40 degrees  
6 we could pull through if it made sense.

7 Q And what if, for example, in the straight run,  
8 how many feet of cable can you pull through at a  
9 time from one to the next?

10 A (Plante) Somewhat dependent on the length of  
11 cable that's on a reel of cable. We try not to  
12 pull more than two reels of cable at the same  
13 time. So our, I don't know exactly what the  
14 length of cable on these particular reels are,  
15 but it's probably in the 7,000 feet range or  
16 maybe 6000. So if there was a 7,000-foot reel,  
17 we would probably be able to pull up to maybe  
18 13,000 feet, leaving a little bit of extra on  
19 either end.

20 Q From a single pole pad station?

21 A (Plante) Yes, from a single pole pad station.  
22 So, actually, we could go in both directions  
23 from a pole pad station if need be. So two  
24 reels in each direction.

1 Q I'm thinking specifically of where the line goes  
2 from the west side of the railroad track to the  
3 east side of the railroad track.

4 A (Plante) Can you be a little bit more specific?

5 MR. IACOPINO: This is in Durham that we're  
6 talking about?

7 MS. MACKIE: Yes. Sheet 3 of 13.

8 MR. IACOPINO: Ms. Mackie, do you have an  
9 exhibit number for that?

10 MS. MACKIE: For which?

11 MR. IACOPINO: On what you're showing on  
12 the overhead right now?

13 MS. MACKIE: On the environmental maps?

14 MR. IACOPINO: On what you're showing right  
15 now.

16 MS. MACKIE: I'm sorry. Yes. This is  
17 number 3 of 13 in the engineering drawings of  
18 Appendix 5, I believe. On the environmental  
19 maps, it's map 6 A of 31.

20 PRESIDING OFFICER WEATHERSBY: Could you  
21 repeat your question for the benefit of the  
22 Committee?

23 **BY MS. MACKIE:**

24 Q My question is there's two angles, two severe

1 angles, there where it crosses the track, and  
2 I'm wondering why there's no pole pad shown on  
3 the Environmental Map.

4 A (Plante) I believe we do have sufficient pad  
5 area on both sides of the railway there to  
6 install the conductor.

7 Q Is that the thing labeled "work pad"? The  
8 orange?

9 A (Plante) Which one are you looking at? So on  
10 the Environmental, they're the red-bounded  
11 polygons?

12 Q Right.

13 A (Plante) We're not on the same page.

14 A (Bowes) You're looking at different maps.

15 Q I mean, the scale is one inch equals 60 feet  
16 so -- oh, here it is. The pulling area is  
17 about, what, 120 feet?

18 A (Plante) Yes. Those are the work areas that we  
19 have established, and we have gone over this  
20 extensively with our contractor, and they are  
21 very confident that the work areas that we have  
22 shown on our Environmental drawings are  
23 sufficient to complete the work.

24 Q Well, I was asking the question because the

1 Alteration of Terrain permit references IEEE  
2 Standard 524 which requires a 1 to 3 ratio of  
3 distance, and it didn't look big enough.

4 A (Plante) In this case, they're probably not  
5 setting up at either of these locations. I  
6 don't have the exact pole plan that the  
7 contractors established with me at the moment.

8 Q Well, Pole 29 is 90 feet high, and Pole 30 is  
9 100 feet high.

10 A (Plante) Yes. I understand that.

11 Q Right. So according to the ratio set up in the  
12 or spelled out in the Alteration of Terrain  
13 Permit, it wouldn't seem like these pads are  
14 large enough to do the pull function.

15 A If we were to actually set up pulling equipment  
16 right there, you are correct, but it's not the  
17 plan to set up the pulling equipment right at  
18 this location.

19 Q So then where would it be set up?

20 A (Plante) Down the line in one direction or the  
21 other.

22 Q The only other pole pads I can find on the  
23 drawing area of Madbury are at the substation  
24 and in the other direction at the Bennett Road

1           substation, which are quite a distance away.

2           A     (Plante) I would have to get my contractor's  
3           pulling plan to show you exactly where the  
4           pulling equipment is established to pull the  
5           conductor.

6           Q     My next question concerns the laydown areas. I  
7           don't see any laydown areas shown on the  
8           Environmental Maps at all.

9           A     (Plante) We're not proposing to establish  
10          separate laydown areas within the corridor. The  
11          only areas where we're proposing to place  
12          materials and equipment are in the areas defined  
13          by the red polygons. We have a material  
14          marshalling area that we've established in  
15          Barrington north on 125 from the traffic circle,  
16          there's where all our material is proposed to be  
17          received into and marshalled out of directly to  
18          work sites.

19          Q     Right. This is a picture of it, and you can see  
20          the sections of pole. They look like flange  
21          sections of pole, right?

22          A     (Plante) Yes.

23          Q     So am I understanding you to say that for each  
24          pole they'll be a flatbed truck coming to each

1 work pad? Or how do you get them there?

2 A (Plante) Essentially. The poles will be  
3 delivered via tractor trailer on a lowboy  
4 trailer in sections. The sections range in  
5 length from 40 to 60 or so feet. And they get  
6 delivered to the roadside and then marshalled  
7 down the construction accessway to each  
8 construction site --

9 Q And that's done with a crane?

10 (Court reporter interruption to finish answer)

11 A Down the construction access way to each  
12 construction site where they are then laid out,  
13 assembled and erected.

14 Q I'm sorry. And this will be, they'll be  
15 transported by a crane, I assume, right?

16 A No, Not by a crane. By truck.

17 Q I mean --

18 A (Plante) The crane would erect them, but the  
19 crane isn't going to be transporting them up and  
20 down the right-of-way.

21 Q But if it's brought in by an articulated  
22 flatbed, right?

23 A (Plante) Define articulated. And it's a  
24 tractor?

1 Q It bends in the middle.

2 A (Plante) Yes, it's a truck with a trailer  
3 pulling the poles.

4 Q I'm just trying to visualize, you know, a  
5 tractor pulling a flatbed with these long  
6 sections on it on a 16-foot-wide road, how is it  
7 going to turn around and get out again?

8 A (Plante) Something that we do all the time.  
9 Pretty standard procedure.

10 Q And then once it gets to the work site, the  
11 crane takes it off the flatbed and --

12 A (Plante) Yes. Some piece of equipment. Could  
13 be like a Lull forklift that's typically used  
14 for handling the material. So that would, you  
15 know, it's a much smaller piece of equipment  
16 than a crane. So that would get the material  
17 sections off the truck and staged to where they  
18 would then be assembled.

19 Q Now, are they assembled on the ground and then  
20 lifted? Or are they lifted piece by piece?

21 A (Plante) Typically, we would prefer to assemble  
22 them on the ground and lift them in one piece  
23 and place them in the pole hole.

24 Q The reason I was asking about the additional

1 laydown yards is because Mr. Bowes in his  
2 Supplemental Testimony of July 27th, 2018, and I  
3 guess yours as well, it says additional laydown  
4 areas may be required. But I couldn't find any  
5 at all. So --

6 A (Plante) Correct. We have not defined any nor  
7 requested any.

8 Q Now, what about ground protection areas. I  
9 don't see any of those either.

10 A (Plante) Any what areas?

11 Q Well, they're called ground protection areas in  
12 other projects you've done. And they seem to be  
13 near roadways, perhaps got to do with closing  
14 the road where you're stringing the wire? What  
15 happens when the stringing of the wire cross the  
16 road?

17 A (Plante) We typically set up one of a number of  
18 means of protection of the road. Sometimes it's  
19 what we call a guard structure which would be  
20 two wood poles with a horizontal pole lashed to  
21 the top of it that's erected at the roadside to  
22 perform as protection should be conductor lose  
23 tension during the pulling operation.

24 Another method that we use more frequently

1 is to set up bucket trucks on the side of the  
2 road and use those for protection, and this is  
3 all done with traffic control, either be by  
4 flagger or local police.

5 Q Well, your President, Mr. Quinlan, mentioned the  
6 Merrimack Valley Reliability Project which I  
7 understand is completed now. I took a look at  
8 those plans, and here's a typical example. The  
9 115 kV line, kilovolt line on the top. Right  
10 here. And as you can see, it's a straight run,  
11 but it's got a pole pad here outlined in blue,  
12 there are guard protection areas on both sides  
13 of the road, route lined in purple, and there  
14 are two hatched areas which are laydown yards on  
15 this map legend. And I'm wondering and also, by  
16 the way, the scale of this map is 1 inch equals  
17 100 feet. In contrast, on these maps the scale  
18 is 1 inch equals 150 feet. And I'm wondering  
19 why we don't have the detail shown on our maps  
20 that were shown on the Merrimack Valley maps and  
21 why does the scale, it makes it impossible to  
22 see detail, especially with all these topo lines  
23 added in. And I'm wondering, you know, without  
24 showing these laydown areas and the pole pad and

1 the ground protection, are you trying to cram a  
2 Project into a hundred-foot easement that can't  
3 fit?

4 A (Plante) First of all, the MVRP plan you're  
5 showing there is not an Eversource drawing.  
6 That's National Grid. It's their piece of the  
7 Project. Their Project was totally different  
8 than our piece of the Project which required,  
9 their Project required the sequential relocation  
10 of 3 or 4 different transmission lines to make  
11 space for the MVRP Project.

12 Our Project for MVRP did not require that  
13 whereas we had a pre-existing open right-of-way  
14 position in our corridor so we had no relocation  
15 and far less material in the corridor than  
16 National Grid did.

17 As far as the question about the SRP  
18 corridor and whether we're trying to cram too  
19 much into an existing corridor, I would argue  
20 that that's not the case. We have done all of  
21 the engineering, we have all of the code  
22 requirements to, met all of the code  
23 requirements to construct the Project as  
24 designed within this corridor.

1 Q I know that you had two towns, your work was in  
2 two towns and their work was in the other two  
3 towns, but it's still the same question because  
4 it's the same scale on all the maps, and it  
5 shows, for example, there are 19 laydown areas.  
6 You know, the Project was in total 18 miles.  
7 And --

8 A (Plante) 18 miles in New Hampshire.

9 PRESIDING OFFICER WEATHERSBY: Ms. Mackie?  
10 I'm going to stop you. If you have questions  
11 concerning the Seacoast Reliability Project,  
12 those can be entertained. I don't want to hear  
13 a lot of detail about the Merrimack Valley  
14 Project. I also, if I remember correctly, your  
15 intervention is limited to Historic Resources.  
16 So if you have question in terms of construction  
17 regarding historic resources --

18 MS. MACKIE: I do.

19 PRESIDING OFFICER WEATHERSBY: I suggest  
20 you --

21 MS. MACKIE: These do relate to historic  
22 resources because in Durham we have 66 stone  
23 walls crossed by the easement, and if the proper  
24 work pads aren't shown and the laydown areas

1           aren't shown and the pole pads aren't shown, we  
2           can't evaluate whether or not you'll be able to  
3           protect these resources. Eversource has agreed  
4           to protect 50 out of the 65 stone walls.

5           MS. DUPREY: Point of order, Madam Chair.  
6           Questioner is testifying again which is taking  
7           up a lot of our time, which is pretty precious  
8           here, and not asking a question. If you would  
9           please instruct her to ask a question.

10       BY MS. MACKIE:

11       Q     So am I correct in understanding that you feel  
12           that four pole pads in Durham will be adequate?

13       A     (Plante) Correct.

14       Q     And no additional laydown yards?

15       A     (Plante) Correct.

16       Q     Even though you say you might have them in the  
17           future; and if so, will DEP be able to approve  
18           them?

19       A     (Plante) It's not our intention to request for  
20           additional laydown areas. It's something, if  
21           something does arise that necessitates, then  
22           certainly the appropriate regulators would have  
23           the opportunity to weigh in.

24       Q     Okay. Your Alteration of Terrain Permit

1 indicates that you'll be blasting 1100 cubic  
2 yards of bedrock. Would that be in the directed  
3 bed type things or in the piers?

4 A (Plante) The only blasting that we're proposing  
5 to do right now is related to the underground  
6 cable installation on the south side of Main  
7 Street in Durham. We don't anticipate the need  
8 for any blasting or ledge removal for any of the  
9 direct embedded or foundation-based transmission  
10 structures.

11 Q So you're going to use a toe ram or whatever  
12 they call it on the granite section, the granite  
13 quarry section?

14 A (Plante) I think the term you're referring to is  
15 hoe ram.

16 Q Okay.

17 A (Plante) However. But no, we're not proposing  
18 to do that. We're proposing to use a core drill  
19 to drill through the ledge in those areas. So  
20 basically we're drilling out a cylindrical hole  
21 in the ledge. It's pretty standard procedure  
22 for us now. In the last almost decade we've  
23 transitioned almost entirely from ledge removal  
24 via blasting to ledge removal via core drill.

1 Q Well, then why does the Alteration of Terrain  
2 permit say 1100 cubic yards?

3 A (Plante) I'm not sure exactly what you're  
4 referring to, but regardless of the method we  
5 use, the volume is still probably relative to  
6 the number of cubic yards of ledge that need to  
7 be removed. So we do a calculation. If we have  
8 a, you know, a 20-foot deep hole and half of it  
9 is ledge, then we have 10 feet of ledge to  
10 remove and volume will be based on the diameter  
11 of that cylinder.

12 Q So am I correct in understanding that the poles,  
13 for example, a hundred foot pole has to be  
14 embedded about 12 foot into the ground?

15 A (Plante) Depends on the type of structure that  
16 it is. I can get you the exact embedment of  
17 each one of them if you'd like. However, for  
18 the sake of argument, it's probably closer to 15  
19 feet for a hundred-foot pole.

20 Q Now, there's one particular pier in the Historic  
21 District of Durham Point, the one on the corner,  
22 where the line goes, it was, you know, it was  
23 originally going east, and then all of a sudden  
24 it goes south. It's Pole number 85.

1 A (Plante) Okay. I'm with you.

2 Q My question stems from the, again, the  
3 Alteration of Terrain Permit Application on page  
4 61 of your exhibit. And it says that several  
5 structures are running angle and certain tangent  
6 structures will require reinforced concrete  
7 caisson foundations, typically 20 to 30 feet  
8 deep, with diameters of 6 to 10 feet. And would  
9 this be the kind of situation where that would  
10 occur?

11 A (Plante) Yes. That's correct.

12 Q And is the surface of the 20- or 30-foot-deep  
13 rebar and concrete below the surface of the  
14 ground in the end or does it protrude?

15 A (Plante) Typically, we design for what we call a  
16 reveal of about a foot and a half above grade  
17 for the concrete foundation. So most of it is  
18 below grade, obviously.

19 Q And anything to do with this much concrete is  
20 going to require dewatering, right?

21 A (Plante) It would require dewatering if we have  
22 groundwater at that elevation certainly.

23 Q And what are the provisions for that?

24 A (Plante) Typically we would use a frack tank to

1 extract the water and hold it, and oftentimes  
2 we'll also use an upgradient area that would be,  
3 I'm not sure what exactly it's called, but it's  
4 like hay bales with filter fabric that the water  
5 would go into and then just clean water filters  
6 back into the environment.

7 Q Do you take the sediment out of it?

8 A (Plante) That's what the hay bale dam, for lack  
9 of a better term, functions as.

10 Q Right. And my last question, the pipe jacking  
11 that will happen under Main Street. Does that  
12 have a cutting head on it or is a like ram-type  
13 thing?

14 A (Plante) I believe it's a cutting head.

15 Q Cutting head.

16 A (Plante) Yes.

17 Q So do you use Bentonite or some kind of polymer  
18 for lubrication?

19 A (Plante) I'm not an expert on that, but I  
20 believe yes, there is some slurry that's used  
21 for lubrication.

22 Q Well, my concern is that about the burial ground  
23 on the fieldhouse side of the cut. If the  
24 cutting head goes through the burial site, we

1           won't be able to identify the bones because as  
2           it's my understanding that the slurry that comes  
3           out of these pipe jacking machines is like  
4           toothpaste type of consistency; is that correct?

5    A       (Plante) I think it would maybe be a little bit  
6           less viscous than toothpaste, but it does have a  
7           viscosity to it certainly.

8    Q       I understand that will be a trench on the south  
9           side of Main Street with the two --

10   A       (Plante) Correct.

11   Q       -- holes, you know, with the --

12   A       (Plante) There's a receiving pit on the south  
13           side, and the trench for the cable.

14   Q       When they're digging the trench with a backhoe  
15           on the south side of Main Street, and they  
16           encounter human bones, what happens?

17   A       (Plante) So we have a plan, first of all, I  
18           don't know that our archeologist has  
19           acknowledged that there's anything there, but we  
20           will be using ledge excavation. So I'm pretty  
21           sure that ledge is not a desirable burial  
22           location. So our ledge removal will most likely  
23           not encounter that.

24                        However, we do have in our Memorandum of

1           Understanding with DHR, I don't know that it's  
2           executed yet.  However, X we have an  
3           Unanticipated Discoveries Plan and an  
4           Unanticipated Human Remains Discovery Plan  
5           that's in effect as part of that MOU.

6    Q       So that would hold up the construction for some  
7           period?

8    A       (Plante) Yes.  I anticipate that it would.

9    Q       Have you ever used GPR to find pipes or other  
10           type things?

11   A       (Plante) Certainly.

12   Q       I'm sorry?

13   A       (Plante) Certainly.

14   Q       Would it be cost effective to do GPR there  
15           before the fact?

16   A       (Plante) I hadn't thought about it.  It's not  
17           particularly expensive.  However, I'm not sure  
18           if GPR finds human remains.

19   Q       Yes.  It's used all the time.  In Arlington  
20           National Cemetery.  For example, they use GPR to  
21           make sure they have all the graves documented so  
22           they don't dig up somebody.

23           Do you have the boring cores for that area  
24           that you have elsewhere?

1 A (Plante) I'm not certain exactly where the  
2 borings are in that area, but I'm sure that we  
3 did do some to facilitate the design.

4 Q I wasn't sure you did because there's no pole  
5 there.

6 A (Plante) I'm pretty sure we did do some  
7 exploratory work in that area to help with the  
8 design of the underground cable.

9 Q Thank you.

10 PRESIDING OFFICER WEATHERSBY: Okay. I  
11 understand Mr. Frizzell has no questions.  
12 Correct? So up next is Ms. Frink.

13 **CROSS-EXAMINATION**

14 **BY MS. FRINK:**

15 Q My name is Helen Frink. I represent the Darius  
16 Frink Farm in Newington.

17 I believe most of my questions are for Mr.  
18 Bowes and Mr. Plante this morning. I have three  
19 areas of questions. First some general  
20 inquiries about the line from Newington, and  
21 then some very specific questions about historic  
22 resources, and lastly some questions about  
23 construction of the underground trench across  
24 the Frink Farm. Do any members of the Committee

1           like a hard copy of my exhibits? Would that be  
2           useful?

3           (Ms. Frink and Ms. Monroe distributing documents)

4 BY MS. FRINK:

5 Q       At the last session, I believe it was in August,  
6           I think that I heard Mr. Wall say that the  
7           expected lifetime of the SRP line under Little  
8           Bay would be 30 years. I'd like to ask about  
9           the expected lifetime of the underground line as  
10          it runs through Gundalow Landing, Hannah Lane  
11          and the Frink Farm.

12 A       (Bowes) Sure, I'll take it. I would say the  
13          expected life, which is also the depreciation  
14          life, what we normally use for transmission  
15          assets, and that would be 40 years on a cable.  
16          Doesn't mean at 40 years that the cable will  
17          become unreliable. That's really based upon how  
18          well it was manufactured, how well it was  
19          installed and how well it's operated. We have  
20          cables now that date back to the 1920s and  
21          1930s.

22 Q       What happens in the event of a failure in the  
23          underground cable? For example, in the farmland  
24          trench beneath the Frink Farm?

1 A So it will be in a conduit system. So depending  
2 on the type of failure of the cable, it could be  
3 as simple as pulling out the failed cable and  
4 pull in a new cable with no work on the farm  
5 property other than at the location where we  
6 had, at the transition pole.

7 Q Is the transmission pole your access point for  
8 pulling through a new cable?

9 A (Bowes) I believe it is. Yes.

10 A (Plante) Yes.

11 Q How feasible would it be to increase the voltage  
12 of the SRP line above this 115 kVs either under  
13 Little Bay or in the underground areas in  
14 Newington? Is there a limitation because of the  
15 way it's constructed or is it feasible to  
16 increase the voltage?

17 A (Bowes) There's definitely a physical limitation  
18 on both of the cable sections as well as on the  
19 overhead portion of the line as well.

20 I'll start with the underground sections  
21 first. The insulation value is limited to a  
22 nominal voltage above 115 kV. Probably 120, 125  
23 kV is what its rating is. So there's some  
24 margin above, 5 percent margin above the nominal

1 voltage of 115 kV, and that's a physical  
2 constraint of the insulation material itself.  
3 If we were to try to put a different voltage on  
4 that, the cable would not survive that.

5 On the overhead portions, the electrical  
6 clearances aren't sufficient to increase the  
7 voltage. So we would have to do something to  
8 change both the structure types as well as the  
9 insulation along the route. At this point there  
10 are no plans to do that, but, as you say, 50  
11 years from now, time will tell. At this point,  
12 there's no plans to do that, and we'll probably  
13 require another formal siting process to do  
14 that.

15 Q Would it be fair to say that it's impractical to  
16 expand the voltage of the line and unlikely to  
17 happen?

18 A (Bowes) Those could be your words. I would say  
19 it would be impossible to do that today.

20 Q Thank you. I've noticed from some of the plans  
21 we've received that it says very specifically  
22 that Eversource is relinquishing the underground  
23 rights on the Frink Farm and that's part of the  
24 option agreement that we've signed with your

1           company, but you're not relinquishing the  
2           overhead rights in Hannah Lane, and I'd like to  
3           know why that's the case.

4           A     (Plante) I don't know.

5           A     (Bowes) I'm not sure I know the answer to that.  
6           I can find out at a break.

7           Q     I'd be curious to know. It has to do with my  
8           question about being able to expand the line or  
9           to change it in any way.

10          A     (Bowes) Could be related to a distribution use  
11          in the future so a lower voltage line, but I  
12          will check and find out.

13          Q     Thank you. Mr. Bowes, you adopted the testimony  
14          of Mr. Jiottis of April 16th, 2016, in which he  
15          discussed the preferred route and the technical  
16          aspects of the Project design. Are there any  
17          technical reasons why the transmission line  
18          cannot be buried throughout all of Newington's  
19          Residential and Historic Districts if the  
20          Committee should decide to require that burial  
21          as a condition of approval? Any technical or  
22          construction-related obstacles to running the  
23          line completely underground.

24          A     (Bowes) I haven't evaluated it in those terms.

1 In general, I would say that whether using an  
2 existing overhead corridor, although not a  
3 preferred method to put an underground  
4 transmission line in, it probably could be done  
5 through Newington. There is the Spaulding  
6 Turnpike so that would create some challenges to  
7 go underground beneath that.

8 Q Yes, and our question is really through the  
9 residential areas and the historic areas.

10 A (Bowes) So I'm not aware of anything that would  
11 prevent that. We would have to take a look at  
12 the streets if we were not able to use the  
13 existing right-of-way. In general, we don't  
14 place underground transmission lines on an  
15 overhead right-of-way corridor. It's only in  
16 very limited circumstances where we do that.

17 Q Mr. Bowes, I'd like to ask if you would read  
18 some from your Prefiled Direct and Amended  
19 Testimony and the Amendment, and do you have a  
20 copy or would you like me to give you one?

21 A (Bowes) Maybe if you would give me the site I  
22 can see if I have it.

23 Q Okay. It's page 3 of 8.

24 A (Bowes) I'm sorry. What's the date on that?

1 Q It's in the Amendment. It's Prefiled Direct and  
2 Amended Testimony.

3 A (Bowes) Exactly. What's the date?

4 Q I believe it's simply the date of the Amended  
5 Application.

6 A (Bowes) So is it actually the Application or  
7 Prefiled Testimony?

8 Q It says, bound in the volume of the Amendment it  
9 says Substitute Prefiled Direct and Amended  
10 Testimony.

11 MR. NEEDLEMAN: I believe it's Exhibit 7.

12 Q I do have a copy if you'd like.

13 A (Bowes) That would be fine. Thank you.

14 (Ms. Frink delivering document to Mr. Bowes)

15 A (Bowes) Thank you.

16 Q I'd like to ask if you would please read on page  
17 3 of 8 lines 16 through 18.

18 A So this is a question, can I start with the  
19 question, too?

20 Q Yes. Please.

21 A So the question starts on line 14.

22 Does the decision to go underground in two  
23 additional segments within the town of  
24 Newington, New Hampshire, affect the Project's

1 preferred route.

2 And the answer begins on page 16. The  
3 inclusion of the additional segments of  
4 underground through the Newington Center  
5 Historic District and along Little Bay does not  
6 change the preferred route or the cost  
7 effectiveness of the design.

8 Q Thank you. I wanted to get at the issue, once  
9 again, that there are no technical obstacles to  
10 putting the line underground, and you said cost  
11 effectiveness. So does that mean that the cost  
12 effectiveness is also not impacted by putting  
13 the additional segments underground?

14 A (Bowes) So I would say it doesn't necessarily  
15 mean the cost does not increase. It still means  
16 that we think it's the cost effective  
17 alternative to deal with the mitigation of The  
18 Newington Center Historic District.

19 Q Would you try to clarify that once again,  
20 please?

21 A Sure.

22 Q Or restate it perhaps for us?

23 A (Bowes) So obviously underground transmission is  
24 more costly than overhead transmission, but

1           because there is a Historic District in this  
2           case, other mitigation factors could have been  
3           as costly or more costly --

4       Q     I see.

5       A     (Bowes) -- to reroute around this area. And we  
6           believe this was a cost effective compromise to  
7           both preserving the Historic District area,  
8           removing an overhead distribution line on Frink  
9           Farm, and also in this case a rather unusual  
10          situation of putting an underground transmission  
11          line on an overhead transmission line corridor.

12       Q     On August 30th, you responded to a question from  
13           Newington's attorney, Mr. Ratigan, and I believe  
14           you stated that Eversource was unable to obtain  
15           the underground rights on the Pickering land.  
16           That's the property adjacent to the Frink Farm.

17                   What efforts did the company make to obtain  
18           the underground rights there? I'm aware that  
19           you offered a considerable sum of money, of  
20           course, to the Frink family, and you also  
21           offered to purchase underground routes from the  
22           residents of Hannah Lane, and I believe you  
23           succeeded there.

24                   What efforts did you make with the

1 Pickering family to put it underground through  
2 that historic property?

3 A (Bowes) So we had conversations with the  
4 landowner, and we had early indications that  
5 there was no interest in doing that.

6 Q And early indications, were they followed by  
7 successive conversations or efforts?

8 A (Bowes) I believe so. Yes.

9 Q Did those include offering money?

10 A (Bowes) I don't believe we ever got to a place  
11 where there was a discussion of financial  
12 considerations.

13 Q Very interesting. I'd like to move now for the  
14 Committee's benefit to illustrate some of the  
15 historic areas that I want to discuss. We've  
16 had a great deal of language. I think it would  
17 be helpful to see a few photographs.

18 So I'm going to begin with my premarked  
19 Exhibit number 1. This is the Pickering  
20 property that I've just referred to. The house  
21 was built in 1812 by Cyrus Frink, and it's  
22 remained in the possession of the Frink family  
23 ever since. It's listed as being eligible for  
24 the State Register of Historic Places.

1                   PRESIDING OFFICER WEATHERSBY: Ms. Frink,  
2 I'm going to interrupt you. This isn't your  
3 time to testify. So if you have a question  
4 about this property that you can ask the  
5 Construction Panel, that would be great, but all  
6 of your information you can save for when you're  
7 the witness.

8                   MR. FRINK: All right. We'll move on.  
9 Thank you.

10                  PRESIDING OFFICER WEATHERSBY: Thank you.

11 BY MS. FRINK:

12 Q Are you able to see any wetland areas in this  
13 photograph?

14 A (Plante) I'm generally aware of the location of  
15 wetland on the left or top left side of or  
16 corner of this photo.

17 Q Good. Thank you. That's marked as Wetland Area  
18 Number 18 and the one further to the right that  
19 is marked as Wetland Area Number 20. And those  
20 are referenced on your maps, and so I'd like to  
21 have clear where they're located on the  
22 property. I'm not sure, can you see the  
23 distribution line here?

24 A (Bowes) I do not see it.

1 Q Perhaps not well enough. I'm sorry it doesn't  
2 show better.

3 Mr. Bowes, if I may go back to your  
4 testimony, I think you have the additional  
5 pages. I'm looking at page 4, lines 19 through  
6 22, where you address the underground  
7 construction. Could you please read that? Page  
8 4 of 8, lines 9 through 22.

9 A (Bowes) Lines 9 or 19?

10 Q Excuse me. 19. My mistake.

11 A (Bowes) Beginning on line 19, at the western  
12 property boundary of the Frink Farm, the  
13 overhead design will transition to underground  
14 construction at another transition structure.  
15 The underground section will traverse the Frink  
16 Farm and the Newington Center Historic District  
17 where burial depth will be increased from  
18 approximately 3.5 feet to 8 feet. Keep going?

19 Q That's the part that I need. Thank you.

20 So you're clear that the Newington farm,  
21 the Frink Farm, is within the Newington Center  
22 Historic District. Is that clear?

23 A (Bowes) I'm clear, but not necessarily by this,  
24 what I just read.

1 Q Okay. This is my premarked Exhibit number 8.  
2 It's an Environmental Map, and I think the date  
3 and information is shown at the very, very  
4 bottom. Revised Environmental Maps. The date  
5 on this map is July 16th of 2018, and it says  
6 Map 24 of 31. And Members of Committee should  
7 be able to see it in their packet.

8 Mr. Bowes, perhaps could you tell us what  
9 the orange cross-hatching represents here in the  
10 very right-hand side of the map?

11 A (Bowes) So the scale is down at the lower  
12 left-hand portion of the map, and it identifies  
13 it as historical sites.

14 Q And why does the cross-hatching that represents  
15 historic sites not extend all the way to the  
16 property boundary?

17 A (Bowes) So if you see the footnote on the lower  
18 right portion.

19 Q Yes.

20 A (Bowes) That describes the reason why the  
21 overlays of the GIS may not be accurate per  
22 property line. And it says parcel boundary and  
23 owner data were required from municipal  
24 databases as of October 2017. The boundaries

1 for the historic sites are from GRANIT. For  
2 more precise description of the historic site  
3 boundaries, see the New Hampshire DHR Project  
4 Area Form in Appendix 10.

5 Q But we are clear that all of the farm is part of  
6 the Newington Center Historic District and as  
7 such, is part of the National Register listing  
8 of Historic Places.

9 A (Bowes) The first part of that I can definitely  
10 confirm that it is part of the Historic  
11 District. I don't know the latter. I just  
12 don't have that information.

13 Q That's fine. Thank you. In the Eversource  
14 leadership team working on this Project, who's  
15 responsible for reading Prefiled Testimony and  
16 Supplemental Testimony of consulting parties?

17 A (Bowes) So the person responsible for their  
18 testimony is the person themselves. They're  
19 responsible to make sure it's accurate. There  
20 is a review process as well conducted both by  
21 attorneys and, in some cases, senior leadership.

22 Q Good. Why was this map never corrected to show  
23 that the historic site boundary extends all the  
24 way to the property boundary? In my Prefiled

1           Testimony in July of 2017 and Supplemental  
2           Testimony, I did call that to your attention,  
3           and yet as we saw the date on this map is July  
4           of this year so the correction was never made.

5       A     (Bowes) So I would say that when you're dealing  
6           with different sources of GIS data, it doesn't  
7           mean that the sources are incorrect. You take  
8           them for what they are, and you place them on  
9           the overlays. There's probably many other  
10          instances where GIS data boundaries are slightly  
11          deviating from the property line, for example,  
12          in this case. I think it's just the nature of  
13          pulling those multiple sources of data together.  
14          You're best to go to the source of information  
15          that's most precise. In this case we've  
16          identified that.

17       Q     Could you identify for us the symbol here that  
18           shows the transition tower that's going to be  
19           located where the line comes from overhead on  
20           the Pickering property to underground on the  
21           Frink Farm?

22       A     (Bowes) Yes. So it's identified as F. It's in  
23           black letter with an orange box around it. F  
24           107-106. And it's a symbol, looks like it's

1           either, looks like it's a square. Drill pier  
2           location.

3       Q     So that is within the Historic District  
4           boundary?

5       A     (Bowes) Yes, it is.

6       Q     Yes, it is. Good.

7       A     (Bowes) But again, not based on what's shown on  
8           the map here, but we do know your property is in  
9           the historic boundary. This structure location  
10          is on your property.

11      Q     Thank you. Across the boundary there, I see a  
12          rectangle are a long stem on it. I believe  
13          that's a work pad. Could you describe the work  
14          pad for us and what it consists of and what it  
15          will be used for? That may be a question for  
16          Mr. Plante.

17      A     (Bowes) Sure. I can start. In this case it's  
18          the area to the right of the F 107-106.  
19          Incorporates the area outlined in red. Looks  
20          more like a panhandle than it does an actual  
21          rectangle. In this case, the activities that  
22          would take place there would be possibly some  
23          site clearing for small brush removal, things  
24          like that. Establishing an area where vehicles

1           could be positioned and turned around.

2           The actual activities there would be  
3           transitioning from an underground duct bank  
4           system to the overhead transmission structures.  
5           So in this case there would be a foundation  
6           installed for that structure. Structure would  
7           be erected there. The cables would be  
8           terminated on that structure. And there would  
9           also be a location for connecting the overhead  
10          conductors to that structure as well.

11        Q    And the work pad itself. Am I to understand  
12          that that's cleared soil or is it timber mats,  
13          is a concrete pad?

14        A    (Bowes) It is a work pad identified as either  
15          temporary fill of gravel. It could be timber  
16          mats. This area does look like it has some  
17          elevation change. And also some potential areas  
18          that could be wet depending on the time of year.  
19          So there may be timber mats there. The only  
20          concrete that would be used would be  
21          specifically for the foundation itself for the  
22          structure.

23        Q    I'd like to come back to the structure itself  
24          that you've referred to. That is the transition

1 tower. Why are there no photographs of these  
2 transition towers in your Application?

3 A (Bowes) I believe originally we proposed to use  
4 three structures when the Application was filed  
5 rather than a single three-phase structure.  
6 Through the course of discussions with the Town  
7 of Newington and other stakeholders, we decided  
8 to make the change for all six of the transition  
9 structures on this Project would be the same  
10 type of design. Instead of going with three  
11 single-phase structures, we would try to limit  
12 visual impacts and go with a single structure  
13 with three phases on them.

14 Q I just want to be clear about the very beginning  
15 of what you said. This was Eversource's  
16 decision to replace the originally proposed  
17 three-pole structure because the monopole  
18 structure seemed more acceptable visually?

19 A (Bowes) That was my understanding, yes.

20 Q Good. Thank you. And is this the final design?  
21 Is this what it's really going to look like?

22 A (Plante) I'll take this one. So this is  
23 generally the configuration of the monopole  
24 transition structure. The biggest difference

1           between this and what we have final design for  
2           now is the configuration of the shroud at the  
3           bottom of the picture that protects the cables  
4           as they come out of the ground and route up the  
5           pole.

6           This that is shown here is more cylindrical  
7           in nature than what we have as a final design  
8           from our fabricator. The final design is, it's  
9           not spread like it's shown there. It's tapered  
10          in one direction toward the underground cables  
11          so it's actually a little bit narrower than the  
12          pole in that direction. So as you're looking  
13          from the underground section toward the riser,  
14          you wouldn't see the width -- W I D T H.

15        Q     Yes.

16        A     (Plante) -- of the shroud in that direction.  
17          However, transverse to the structures you would  
18          see the shroud widening from the top of it down  
19          toward the base. It's about a 15-foot tall  
20          shroud. Other than that, the configuration is  
21          pretty accurate.

22        Q     How far from the pole itself do the cables  
23          actually enter the ground? Are we at 10 feet?  
24          15 feet?

1 A (Plante) No. Right at the pole. So they're  
2 attached to the pole a little bit offset from it  
3 so that they can transition down, and there's a  
4 sweep, like a conduit sweep, that goes right  
5 into the ground from that location. There's a  
6 detail in the engineering drawings that show  
7 that.

8 Q Yes, and I have a part of that later. Yes.

9 When will the Committee or when will we see  
10 images of the final design of the transition  
11 structure? I think you said there will be six  
12 of these in Newington?

13 A (Plante) I do have an engineering drawing of  
14 that. I don't have an image because we don't  
15 have, we don't have one erected yet.

16 A (Bowes) I think that there's six on the total  
17 Project. I think there are three in Durham and  
18 three in Newington.

19 Q Okay. And can we confirm that the height is 75  
20 feet; is that accurate?

21 A (Bowes) We can check the height for the, again,  
22 it's the 106 structure number. So for the Frink  
23 Farm it's 75 feet.

24 Q And the diameter of the foundation? Does the

1 foundation protrude above the ground? Is that  
2 true?

3 A (Plante) Yes, about a foot and a half.

4 A (Bowes) We'll get you the diameter. Just a  
5 moment.

6 A (Plante) I had that out and I put it away and  
7 now I can't find it. Could you repeat the  
8 question, please?

9 Q We're looking for the diameter of the base of  
10 the transition structure.

11 A (Plante) It's 96 inches. Eight feet.

12 Q Eight feet?

13 A (Plante) Correct.

14 Q In diameter.

15 A (Plante) In diameter, yes.

16 Q Thank you. Are you familiar with Section 106 of  
17 the National Historic Preservation Act?

18 A (Plante) Yes.

19 Q Did that influence your decision to put the line  
20 underground through the Frink Farm?

21 A (Plante) There were a lot of influences in  
22 making that decision. Certainly the historic  
23 values of the Frink Farm weighed in on that.

24 Q Are you at all familiar with what the Section

1 106 defines as an adverse effect?

2 A (Plante) That's not my area of expertise. I'd  
3 have to defer that to our Historical expert.

4 Q And who is that person?

5 A (Plante) Cherilyn Widell.

6 Q And will she be here later?

7 A (Plante) Yes.

8 Q So she's on the witness list for later in the  
9 proceedings? She is. Thank you.

10 I'm going to move now to some more general  
11 questions about the construction of the farmland  
12 trench. My first question is what season or  
13 when do you anticipate working in our land?

14 A (Bowes) And this is specifically for the  
15 trenching across?

16 Q Yes. Please.

17 A (Bowes) So the direct impact or direct times  
18 would be August 1st through October 24th. There  
19 will probably be a couple weeks on either side  
20 of that to deal with site mobilization and  
21 things like that.

22 Q Would you please repeat the dates for me?

23 A (Bowes) Sure. August 1st, 2019, to October  
24 24th, 2019.

1 Q And so that's going to be during haying season.

2 A (Bowes) Yes.

3 Q And have I understood correctly that there are  
4 two separate phases of construction; one is to  
5 construct the trench and then later you come  
6 back to pull the cables through? I guess it  
7 would help if you described the phases a little  
8 bit.

9 A (Bowes) Sure. We started to do that a little  
10 bit with the work pad itself.

11 Q Yes.

12 A (Bowes) But the phases of construction for  
13 underground would be dealing or establishing the  
14 underground trenching. In this case, it would  
15 be a road crossing as well to come onto your  
16 property. There will be trenching across your  
17 property.

18 Q Excuse me. The road crossing would come in from  
19 Nimble Hill Road?

20 A (Bowes) The one I'm talking about, I believe.  
21 Yes.

22 Q Because you said "establish a road crossing." So  
23 Nimble Hill Road onto the property.

24 A (Bowes) So as part of that trenching there would

1           also be conduits and spacers placed into the  
2           bottom of the trench.

3           Q     Um-hum.

4           A     (Bowes) Then there would be some fill added to  
5           around those to support them. And then  
6           obviously the topsoil would be put back on to  
7           the top of the trench to enable agriculture to  
8           continue in the future.

9                     That process would continue along, and we  
10           normally say 100 feet per day. It would  
11           probably go faster through an area like your  
12           farm where it's already been developed and the  
13           soil is, will be fairly easy digging, at least  
14           we anticipate.

15                    Then towards the, based on your picture  
16           that you showed, I guess that would be the west  
17           end. We do expect to cross that stream area.  
18           There will be some activities there that will  
19           probably take longer than the traditional  
20           hundred feet per day as we go through that area.  
21           Put the duct bank through. And that will also  
22           be restored as well.

23                    After the duct bank is in, really be little  
24           reason to cross your property again, other than

1 for essentially periodic maintenance as we look  
2 to walk that line. A lot of it can be visually  
3 inspected from either side.

4 The activities that would take place after  
5 the duct bank is in, we would make sure the duct  
6 bank was physically sound. We run a device  
7 through it sometimes known as a pig just to make  
8 sure that the seams in the cable will pull  
9 through smoothly. A period of time later the  
10 cable will actually be pulled through that  
11 underground conduit system. Again, not  
12 accessing your property except at the transition  
13 station location. And that's about the end of  
14 the process for work across your property.

15 Q And again, the end would be projected to be  
16 when? October?

17 A (Bowes) Well, the end for the actual duct bank  
18 installation is October, yes.

19 Q Okay. I want to go back for a minute to the  
20 boundary area between the Frink and Pickering  
21 properties. This is the boundary wall. You can  
22 see it just at the base of the trees. It's my  
23 premarked Exhibit number 6, and this is a stone  
24 wall that marked the old boundary. Is this

1 something that you can rebuild or restore after  
2 construction? You're going to go across it with  
3 that, that work pad is going to sit on it, I  
4 believe.

5 A (Bowes) Most cases we wouldn't have to restore  
6 or rebuild. We can position the work pad  
7 equipment and the pad itself using a series of  
8 timber mats to work on either side of this. So  
9 at this point we don't anticipate having to  
10 rebuild, but we certainly would if we did any  
11 type of damage. As you've done, we'd also take  
12 photographs and video of the stone walls before  
13 construction and also after construction.

14 Q I'm going to go now to my Exhibit number 27 and  
15 take a look at the farmland trench itself. Bear  
16 with me for just a moment here.

17 At this point I need to transition to using  
18 the ELMO, if I may.

19 ADMINISTRATOR MONROE: Okay.

20 MS. FRINK: Can I enlarge it? That would  
21 be helpful. That's good. Thank you.

22 BY MS. FRINK:

23 Q This is a revised engineering drawing of the  
24 farmland trench, and it shows the way that it

1 will be constructed, I think. Could you please  
2 explain to us the sodium bentonite material and  
3 it says there "sodium bentonite trench dam."  
4 The entire SRP line will go perpendicular to the  
5 way that water flows through the wetland so the  
6 concern here is that this intact structure would  
7 cause damming and sort of backup flooding in the  
8 fields. I'd like if you could please address  
9 that.

10 A (Plante) So this can be more fully explained by  
11 the Environmental Panel. However, the use of  
12 this trench dam was deemed to be not required by  
13 our consultant, GEI, as well as the New  
14 Hampshire DES. So while the detail is in the  
15 drawing package, we do not anticipate the need  
16 to use it, primarily due to the consistent cease  
17 of the soils that we're removing and replacing  
18 the same soils in the trench so the conditions  
19 are not likely to change from today.

20 Q Let me see if I've understood. Are you saying  
21 that the sodium bentonite will not be used?

22 A Correct.

23 Q And what will be at the sides of the duct bank  
24 there?

1 A (Plante) The natural soil that's there today.  
2 As you know, our intent is to remove the  
3 existing strata and stockpile them separately so  
4 that we can replace them in the same  
5 configuration that they are today.

6 Q So is it accurate to say that we would be  
7 looking at what's marked there as duct bank and  
8 then everything else would be native backfill as  
9 it's called?

10 A (Plante) That's correct.

11 Q And the soil that occupied the space where the  
12 duct bank has to be trucked away. You've agreed  
13 to dispose of that.

14 A (Plante) That's correct.

15 Q And how do you dispose of the soil if it turns  
16 out to be contaminated with PFAS?

17 A (Plante) I don't know the exact method of  
18 decontamination and disposal, but we deal with a  
19 variety of contaminants with the soils that we  
20 excavate from materials for our projects, and we  
21 seek suitable decontamination and disposal  
22 methods. Sometimes it could be landfills, could  
23 be incineration prior to disposal, and I don't  
24 know what's appropriate for PFOS. That's an

1 environmental discussion. However, we do intend  
2 to have a suitable disposal plan for those  
3 excess spoils.

4 Q Part of my questioning here has to do with the  
5 access road. The way that that access road will  
6 be necessary for you to truck out these excess  
7 soils. Could you perhaps describe the access  
8 road to us?

9 A (Plante) To the extent that it differs from  
10 what's on the Environmental plans? I guess I'm  
11 not quite --

12 Q The access road shown in the Environmental plans  
13 is just a map. I'm interested in the width, the  
14 material that it's composed of and how you  
15 remediate it after the fact.

16 A (Plante) So I believe we have an easement plan  
17 throughout the Frink property that describes  
18 what is temporary easement, construction  
19 easement, permanent easement.

20 Q Yes. Um-hum.

21 A (Plante) And the construction method throughout  
22 that involves, obviously, the excavation and  
23 placement of the spoils along the edge of the  
24 excavation on one side or the other, allowing

1 work to take place on the other side.

2 Q And when the --

3 A (Plante) I'm not sure if I'm really answering  
4 your question.

5 Q There's going to be a considerable amount of  
6 trucking along this access road, and it's going  
7 to run from Nimble Hill Road across our  
8 property. Is that accurate?

9 A (Plante) Yes.

10 Q And will it be only used for construction on the  
11 Frink property? My question is whether you'll  
12 be driving across our land in order to be able  
13 to go across to the Pickering property or points  
14 west?

15 A (Plante) I believe the intention is to, is not  
16 to do that. However, I don't believe that  
17 there's anywhere in our Application where we've  
18 said that we would not do that, but I don't  
19 believe it's our intention to.

20 MS. FRINK: Pam, can I go back?

21 ADMINISTRATOR MONROE: Just ask Dawn.

22 BY MS. FRINK:

23 Q Thank you very much. This is a photo taken by  
24 the Durham Historic Association of an access

1 road, I think near the Madbury substation and  
2 Eversource Project. I just want to be clear.  
3 Is this the kind of access road that we're going  
4 to be looking at?

5 A (Plante) No. I think we addressed this last  
6 week. This is for a total different type of  
7 Project in a totally different type of  
8 right-of-way configuration requiring much, much  
9 larger equipment and accesses. So that's not  
10 what we're expecting or proposing for this  
11 Project.

12 Q When you build the access road across our  
13 property though, I believe you said that some  
14 sort of fabric is laid down and then gravel?

15 A (Plante) Yes. That's correct.

16 Q And there's going to be a considerable amount of  
17 trucking which will compact the soil. How do  
18 you restore all of that?

19 A (Plante) I think we may have addressed this in  
20 an agreement we have with both you and the  
21 Rockingham County Conservation District. I  
22 don't have the exact document in front of me.

23 A (Bowes) But in general we remove the gravel, we  
24 would remove the barrier, and then if there were

1 excess topsoil available it would be spread over  
2 and restore the property to its original use.

3 Q And that includes replanting.

4 A (Bowes) Yes.

5 Q Yes, it does. All right. Thank you. I think  
6 that's the end of the questions that I have.  
7 Thank you.

8 PRESIDING OFFICER WEATHERSBY: Let's take a  
9 12-minute break or so and come back at 10:30.

10 MR. RICHARDSON: May I speak to one issue  
11 quickly before we do? I have some exhibits,  
12 assuming I'm up next, that I'd like to use  
13 today. I'm prepared to email them out  
14 electronically. I also have paper copies on the  
15 table behind me. There's six of them and an  
16 updated list as well, and I wanted to let the  
17 parties know so they could pick them up so we  
18 don't lose time during the hearing.

19 PRESIDING OFFICER WEATHERSBY: Thank you.  
20 You will be up next when we return. Thank you.

21 (Recess taken 10:18 - 10:35 a.m.)

22 PRESIDING OFFICER WEATHERSBY: Okay. Let's  
23 resume. Attorney Richardson?

24 **CROSS-EXAMINATION**

1 **BY MR. RICHARDSON:**

2 Q Thank you. Good morning. I've handed out or  
3 we've made available the exhibits that I want to  
4 use today. Let me approach and give you a  
5 binder with those as well so you'll have them in  
6 front of you. Hold on a second.

7 A (Bowes) Thank you.

8 Q Mr. Bowes, my questions will primarily be to you  
9 about some of the property rights testimony, but  
10 if other members need to chime in or if you  
11 don't know the answer feel free to let me know  
12 to ask of other witnesses.

13 When you took the stand two days ago, I  
14 believe you all adopted your testimony as true  
15 and accurate, and I believe, Mr. Bowes, you've  
16 adopted Mr. Jiottis's testimony which is  
17 Applicant's Exhibit 6.

18 A (Bowes) Yes. That's correct.

19 Q And at line 20, I'm looking on page 2, you say I  
20 will also describe the property rights  
21 associated with the Project. And then the  
22 particular statement I want to turn your  
23 attention to is on page 4 which is at line 3.

24 A (Bowes) Is that in the binder you just provided

1 us?

2 Q No, this will be in your testimony. But if it's  
3 all right with you, I can just read you what I  
4 have here, and I just want to ask you if that's  
5 true and accurate.

6 So at line 3, there's, you respond to the  
7 question, "Please describe whether the Applicant  
8 has a current right and option or other legal  
9 basis to acquire the right to construct, operate  
10 and maintain the facility on, over or under the  
11 site."

12 Do you have that exhibit in front of you?

13 A (Bowes) I don't. I'll get it.

14 Q Okay.

15 A (Bowes) I have it.

16 Q Okay. And you see there beginning at line 3  
17 there's the part that I just read to you  
18 beginning with your answer about currently  
19 owning, and you say all of the property or  
20 property rights.

21 And then it continues, I'm looking at line  
22 10, and it looks like about 3 or 4 lines below  
23 that. You say the PSNH right-of-way to be used  
24 for the Project is comprised either of land,

1 parcels, which the Applicant owns in fee  
2 ownership or real estate rights and interest  
3 comprised of various licenses and permanent  
4 easements. And then it says or, and this is the  
5 part I want to focus on, under contract by the  
6 Applicant for the purposes of construction,  
7 operation and maintenance.

8 And then you go on to say that you've  
9 consulted with the real estate department, and I  
10 believe you conclude that PSNH has the current  
11 right, either because of its land ownership  
12 under current agreement contracts or under its  
13 existing easements.

14 Now, all of that is true. You've got all  
15 of the property rights either under agreement or  
16 in your existing easements. That's the  
17 testimony you gave when you took the stand and  
18 that's still true today?

19 A (Bowes) So I believe I said previously that when  
20 the Application was filed, we had all the  
21 necessary rights. When the Applicant was  
22 amended, we had all the necessary land rights.  
23 And today we have all the necessary land rights.

24 Q So that's a yes. That statement is still true

1 in your opinion.

2 A (Bowes) Yes. But, again, I just want to make it  
3 clear that the Application was amended. So you  
4 have to actually go through each step of the  
5 process as I just did.

6 Q Right, but what I'm getting at is when you were  
7 in this room a few days ago or few weeks ago as  
8 it is, you adopted this statement meaning it's  
9 true now. So the Application's been amended,  
10 but that statement was still true.

11 A (Bowes) No. It was true at the time of the  
12 application. It was true at the time of the  
13 amendment to the Application, and it's also true  
14 today.

15 Q Thank you. Now, so there's two categories. One  
16 is the existing right-of-way, and then the other  
17 is new easements which I think is described in  
18 Mr. Plante's testimony which is Applicant  
19 Exhibit 8, page 4, line 25, and I'll read this  
20 to you. It says the right of way then proceeds  
21 easterly in existing right-of-way for  
22 approximately four miles to the western shore of  
23 Little Bay. The line will occupy the existing  
24 cable corridor as it crosses Little Bay. And

1           then it says, and this is important, once  
2           reaching the eastern shore the cable landing  
3           will occur on the property where PSNH has  
4           contracted to obtain a new easement. And that  
5           statement is correct as well.

6       A     (Bowes) Yes, it is.

7       Q     Now, let me, I was curious about this because  
8           when you adopted those statements as true and  
9           accurate and I believe Mr. Plante did as well, I  
10          noticed you made no adjustment or exceptions for  
11          the documents and exhibits that the Crowley  
12          Joyce Trust has provided. So I'm wondering, and  
13          I want to go through these exhibits with you,  
14          did you review those before adopting your  
15          testimony? Are you familiar with them or have  
16          you not seen those before?

17      A     (Bowes) I have seen them.

18      Q     Okay. And you weren't, I assume you reviewed  
19           these with the real estate department that PSNH  
20           has?

21      A     (Bowes) And our lawyers, yes.

22      Q     And you weren't convinced that there was any  
23           need to adjust your testimony at all?

24      A     (Bowes) None whatsoever.

1 Q Let's take a look at what's in the folder there.  
2 And I'm going to turn your attention to JCT  
3 Exhibit 1. I'll put this up on the screen so  
4 people can see it as well.

5 So you're familiar with this plan, right?

6 A (Bowes) Yes, I am.

7 Q And I want to point to what's shown as Lot #5,  
8 and that's where I placed my pen, and that's  
9 what's called the Beswick property. Are you  
10 familiar with where the Beswick property is?

11 A (Bowes) Yes, I am.

12 Q And you see that shows this plan is dated, I  
13 believe, in 1984. And it shows what is or what  
14 was the existing right-of-way at that time.

15 A (Bowes) That is correct.

16 Q And below that, we have Lot #6 which is that lot  
17 right next to it, and that's the Crowley Joyce  
18 Trust property.

19 A (Bowes) Yes.

20 Q Okay. Obviously, we can see the location of  
21 that existing right-of-way that was there in  
22 1984 or that existing easement.

23 The thing I want to turn your attention to  
24 is the property lines. Do you see how they all

1 extend down and meet the water line?

2 A (Bowes) Not all of them. The ones on the shore.

3 Q Okay. So both the Beswick property and the  
4 Joyce property, those lines extend to the water?

5 A (Bowes) Yes.

6 Q And that's your understanding of what people  
7 essentially own is at least to the water line.

8 A (Bowes) I don't know what you mean by "at least  
9 to." I don't think they can be owned beyond the  
10 water line.

11 Q But to the water line, you agree with me that  
12 they can?

13 A (Bowes) Yes.

14 Q Okay. And I'm not asking you for a legal  
15 opinion of what's below, but we may address that  
16 at some other time.

17 The next thing I want to show you is why  
18 don't we just flip the tab to JCT Exhibit 2  
19 which is the Little Bay Covenants. And why  
20 don't we go to number 3. You know these  
21 covenants were imposed in 1984. And number 3  
22 here, I'll read it to you, and you can follow  
23 along I believe. It says Use. Each property  
24 shall be used only for single family residential

1 purposes, and there shall be no commercial,  
2 professional or business offices of any sort  
3 permitted.

4 Have you looked at that provision before?

5 A (Bowes) Yes, I have.

6 Q Okay. And under 4, it says Dwellings and  
7 Structures. There shall be no buildings or  
8 other structures placed or erected on any  
9 property other than one single family house  
10 together with any appurtenant garage, barn or  
11 boathouse. You've seen that provision before as  
12 well, I assume?

13 A (Bowes) Yes.

14 Q And then on page 4 of paragraph 10, it says that  
15 all of the right, the landowners essentially  
16 have the right to enforce those restrictions.

17 A (Bowes) Yes.

18 Q Okay. Let's jump ahead to, and if we look at  
19 JCT Exhibit 3, I'll just represent to you that  
20 that is the existing easement, the 1950 easement  
21 that was shown on the plan that was approved by  
22 the Planning Board. Have you seen that before?

23 A (Bowes) Yes.

24 Q Okay. And that's your understanding. That's

1 the existing easement, and it allows aboveground  
2 structures to be built, right?

3 A (Bowes) Doesn't say that specifically.

4 Q Okay. But there's no reference, it refers to, I  
5 believe, to towers. It's got the boilerplate  
6 language in there, poles, towers, both of which  
7 with wires supported by the same and necessary  
8 guys, crossarms, braces, insulators. Those are  
9 all aboveground apparatus for equipment or  
10 structures, right?

11 A (Bowes) Well, the guys would not be.

12 Q The guy line, that refers to a line that goes  
13 from the pole down to the ground to hold the  
14 pole up; is that right?

15 A (Bowes) The counterpoise and guy angles would be  
16 underground structures.

17 PRESIDING OFFICER WEATHERSBY: Attorney  
18 Richardson, could the Committee see what  
19 you're --

20 MR. RICHARDSON: Sure. I will put this up  
21 for you.

22 BY MR. RICHARDSON:

23 Q So I'm reading from that first paragraph there,  
24 and these are all in the prefiled exhibits that

1 the Committee has as well.

2 Let me jump ahead to Exhibit Number 5.

3 Now, this is the Release of that 1950 easement.

4 Isn't it? Why don't I read to you from the  
5 first --

6 A (Bowes) Yes, it is.

7 Q The first paragraph reads, "PSNH hereby releases  
8 to Paul R. Beswick of 44 Gundalow Landing Circle  
9 the rights and interest in the grantor in and to  
10 a certain land of the Grantee in the town of  
11 Newington, and then it refers to the rights that  
12 were acquired by New Hampshire Electric Company  
13 from MacFarland in 1950. And then it refers  
14 also to it being Lot #5 on a plan entitled  
15 Little Bay Estates located in Newington dated  
16 February 13, 1984, and that's the plan that  
17 shows the right-of-way that's JCT Exhibit number  
18 1.

19 A (Bowes) Yes.

20 Q So the date of that release, that was in, let me  
21 double-check. I need to look at it. I think it  
22 was in 1990. I'm looking at JCT Exhibit 5.

23 A (Bowes) 1997.

24 Q Correct. So PSNH released the easement after

1 the Little Bay Covenants had been recorded,  
2 right?

3 A (Bowes) Correct.

4 Q Now, let's turn to JCT Exhibit 6. And I  
5 believe, is it your understanding that there was  
6 a new easement that Mr. Beswick and PSNH  
7 negotiated in 1997?

8 A (Bowes) Yes.

9 Q That's this document here. Have you seen that  
10 before, JCT Exhibit 6?

11 A (Bowes) Yes, I have.

12 Q And I'm looking in paragraph 3, and it says,  
13 well, it's entitled, oh, excuse me. On page 3.  
14 Paragraph 3 as well.

15 The document on this page is called  
16 Agreement and Consent To Joint Use, and it says  
17 whereas, in paragraph 3, Beswick wishes to  
18 maintain a swimming pool. And then it says  
19 whereas the easement prohibits the erection or  
20 maintenance of any building or structure and  
21 authorizes the removal of all obstructions  
22 within the easement.

23 And then it says whereas PSNH desires to  
24 cooperate with Beswick in the retention and

1 maintenance of the Pool subject to the terms and  
2 conditions set out and Beswick desires to  
3 continue with PSNH to protect its easement  
4 rights.

5 What I infer from this is that PSNH decided  
6 to allow Beswick to build a swimming pool and so  
7 the parties released the existing easement and  
8 then negotiated this new easement that is in  
9 Exhibit 6. JCT Exhibit 6. Is that right?

10 A (Bowes) No.

11 Q What's your understanding?

12 A (Bowes) We identified an encroachment on the  
13 easement. We worked with the customer to come  
14 up with an agreement that was satisfactory to  
15 both parties, and that's what this memorializes.

16 Q Okay. But we saw that JCT Exhibit 5 was a  
17 Release of the existing easement, and then this  
18 appears to be a new document, and it modifies  
19 this. I mean, it refers to a location in an  
20 unrecorded plan, and it also changes the use  
21 somewhat in that this easement document allows  
22 underground structures to be built.

23 A (Bowes) That's not the way I would look at it.  
24 As I said before, we identified an encroachment

1 on our easement area, our right-of-way, we  
2 worked with the customer to come up with a  
3 satisfactory means. This is the way to  
4 memorialize that and allow them -- rather than  
5 having to remove the pool from the easement  
6 area, we came up with an accommodation to work  
7 through the issue.

8 Q And part of the reason that you were able to do  
9 that is the lines across the Beswick property  
10 really weren't being used at that time, right?

11 A (Bowes) I would say that probably had some  
12 impact to it, yes, although we have found many  
13 customers will build swimming pools, you know,  
14 beneath overhead transmission lines so --

15 Q And I believe, have you reviewed any of PSNH's  
16 or Eversource's now continuing property records?  
17 Are you familiar with that term?

18 A (Bowes) Maybe you could put it into laymen's  
19 terms.

20 Q I'm actually using the technical definition.  
21 There's obviously a Uniform System of Accounts  
22 that's required by all regulated utilities. In  
23 this case, I believe it's because PSNH and  
24 Eversource are regulated by FERC. So you have

1 to keep records of additions and deletions,  
2 retirements, contributions and age of  
3 construction, the property records of what plant  
4 and equipment you have. And its cost.

5 A (Bowes) It's normally called a FERC Form 1.  
6 Each utility files that each year.

7 Q Right. And supporting the entries in the FERC  
8 Form 1 are the continuing property records that  
9 show the original cost of the plant installed.

10 A (Bowes) Okay. I'll accept that.

11 MS. DUPREY: Point of order, Madam Chair.  
12 The questioner is testifying. Would you please  
13 instruct the questioner to cease testifying and  
14 ask the questions?

15 MR. RICHARDS: I was trying to transition.  
16 I believe the witness agreed with my summary  
17 which was why I was trying to just cut to the  
18 chase on this.

19 PRESIDING OFFICER WEATHERSBY: You may  
20 proceed.

21 MR. RICHARDSON: Thank you.

22 BY MR. RICHARDSON:

23 Q So it's my understanding that the lines that  
24 went across the Beswick property before this

1 agreement in 1997 were removed after the  
2 customers paid for the cost to have them  
3 removed, and that would be shown in your  
4 continuing property records, right?

5 A (Bowes) I don't know that.

6 Q But you'd agree with me that if a customer were  
7 to pay for the removal of a line it would be  
8 retired, and then the source, any source of  
9 payment would be shown in your property records.

10 A (Bowes) I don't know that.

11 Q Okay. So I take it then you haven't used, you  
12 haven't reviewed the property records to see if  
13 in fact the residence in this subdivision paid  
14 to have the lines removed after this agreement  
15 was negotiated with the Beswicks.

16 A (Bowes) So after 1997?

17 Q Correct.

18 A (Bowes) I'm not aware of any payments from these  
19 customers.

20 Q Okay. And would it surprise you in, and do you  
21 know or not know if residents were told that if  
22 they paid for the lines they'd be removed  
23 because Eversource didn't need this line and  
24 they were not planning to ever cross Little Bay

1           again because of its environmental impact?

2       A     (Bowes) Sounds like a leading question at best  
3           there.

4       Q     It certainly is.

5       A     (Bowes) Do you have documents that I could  
6           review? I'd be glad to. I'm not going to react  
7           to speculative questions like that.

8       Q     Okay. So you don't know the answer. But the  
9           answer might be in your property records, and it  
10          would show whether or not my client or the  
11          Beswicks paid money to have those lines removed?

12      A     (Bowes) I don't know that.

13      Q     Okay. Do any of the panel members know whether  
14          or not residents paid to have the lines removed?

15      A     (Plante) I'm not aware of it.

16      Q     Do you think that the fact that the easement was  
17          released is indicative of Eversource's or PSNH's  
18          belief in 1997 that it wasn't going to need a  
19          line across the bay?

20      A     (Bowes) No.

21      Q     Why not?

22      A     (Bowes) You've ordered these documents in the  
23          reverse order that I would have. I would have  
24          put your Exhibit 6 before Exhibit 5. This was a

1 simultaneous transaction. Release of one  
2 easement, acquiring of the new.

3 Q It's interesting that you say that because I  
4 want to turn your attention to JCT Exhibit 5,  
5 and let's look at the second page. Can you see  
6 the date there this was executed?

7 A (Bowes) It says June of 1997.

8 Q Okay. In fact 30th day of June 1997?

9 A (Bowes) Yes.

10 Q Now, let's flip to Exhibit 6.

11 A (Bowes) June 30th, 1997.

12 Q Okay. You're correct. I stand corrected. So  
13 these were negotiated together. But the key  
14 point is the easement was released and a new  
15 easement was agreed to based on the plan that's  
16 referenced in JCT Exhibit 6, right?

17 A (Bowes) Yes.

18 Q Now nothing was built though. There weren't any  
19 new lines put in in any new location. This  
20 basically sat still, and this easement was never  
21 utilized.

22 A (Bowes) Not until this Project was proposed.

23 Q So the lines were removed, a new easement was  
24 agreed to, and from 1997 until 2014 or '15,

1           there was really almost no action taken. I'm  
2           not sure of the exact date you would have  
3           started mobilizing. But in terms of interacting  
4           with the landowners it wasn't until this  
5           Application got filed, noticed before the towns,  
6           that anything was done from a landowner or a  
7           public perspective, right?

8       A     (Bowes) I would agree with that except for the  
9           first part of your question that the lines were  
10          removed after 1997. I don't know that.

11       Q     Okay. So you're not disagreeing. You just  
12          don't know when the removal took place.

13       A     (Bowes) Correct.

14       Q     Okay. With that background, let's start to  
15          focus on the new easement. And I gave you in  
16          the binder some new exhibits. They're going to  
17          be at the end. Let's focus on JCT 14.

18                 For the purpose of the record, this isn't  
19                 in what I emailed before, but this document is  
20                 taken from Newington Exhibit 4, and this is, I  
21                 believe, the response to Newington's request 1-5  
22                 which asked for the property rights or records  
23                 that Eversource had to support what was  
24                 essentially in the testimony that you've

1           adopted.

2                   And have you seen this before?

3       A       (Bowes) Yes, I have.

4       Q       Okay. And there's, in the left-hand column  
5           there's a Line List, and I believe there's a  
6           series of numbers, and does that refer to the  
7           order of the properties along the line?

8       A       (Bowes) Yes, it does.

9       Q       So the first one at 400, it looks like there was  
10           an Easement Exchange Agreement on 11/20/2015?

11      A       (Bowes) Yes. There was.

12      Q       And that was with the Beswicks?

13      A       (Bowes) Yes.

14      Q       And I want to show you the Beswick deed which is  
15           at JCT Exhibit 15. There's a couple things I  
16           wanted to point out to you about this. I  
17           believe in the first full paragraph, second full  
18           paragraph, excuse me, it describes a certain  
19           tract of land situated in Newington, County of  
20           Rockingham, and it says that that's Lot #5. And  
21           it's as shown on the subdivision of Little Bay,  
22           and that's a 1984 subdivision again, and it  
23           references that plan.

24                   The second piece though is it says that and

1           this is, I had highlighted this, but the  
2           highlights didn't appear. So I've marked there,  
3           it's the paragraph beginning with "subject to."  
4           It says it is subject to the Protective Covenant  
5           of Little Bay Estates dated November 23, 1984,  
6           and recorded in the Rockingham County Registry  
7           of Deeds, Book 2522, Page 611. And those are  
8           the Little Bay Covenants that are JCT Exhibit 2,  
9           right? That's what's being referred to?

10        A    (Bowes) I believe they are, yes.

11        Q    It's my understanding that, and obviously,  
12           you've consulted with your real estate  
13           department, that a landowner can only convey  
14           what they own. So if my deed says it's subject  
15           to plans and covenants, I can't just sell you  
16           the right to violate those covenants, right?

17        A    (Bowes) That's probably a legal question the  
18           lawyers can take.

19        Q    But there's a difference between what was  
20           existing in 1950 because that was in the  
21           location shown on JCT Exhibit 1, the plan. Let  
22           me pull that up again. This plan right here,  
23           that's not where you're proposing to build your  
24           Project. It's, you may intersect with it, but

1           you're coming in more or less where I placed the  
2           pen there, on the side, more or less directly in  
3           front of the Joyce Crowley Trust property, and  
4           it's coming in at a new location. So that's a  
5           change?

6                       PRESIDING OFFICER WEATHERSBY: Attorney  
7           Richardson, a question, please.

8           Q     You agree with me that's a different location,  
9           right?

10          A     (Bowes) A different location than what?

11          Q     Than what was shown on the plan referenced in  
12           the Beswick deed.

13          A     (Bowes) It's different than the easement in this  
14           diagram. Yes.

15          Q     And I'm not trying to trick you on legal  
16           interpretations, but we've changed the location  
17           is what I'm getting at.

18          A     (Bowes) I was good with you until you said "we."  
19           I don't think you've changed any locations. So  
20           PSNH, the Applicant, has filed an Application.  
21           It does have a different landing point than this  
22           easement diagram shows.

23          Q     And it also differs from the 1950 easement that  
24           referred to the poles in that this is entirely

1 below ground.

2 A (Bowes) The Project is proposed to come on shore  
3 and maintain underground through the entire  
4 Gundalow Landing development, yes.

5 Q So Eversource has released that easement or  
6 excuse me, PSNH did, in 1997. If your property  
7 rights are dated November 20th, 2015, how do you  
8 get around these Little Bay Covenants because  
9 doesn't my client, don't all the property owners  
10 have the right to enforce those covenants?

11 A (Bowes) They don't apply.

12 MR. NEEDLEMAN: Objection. Madam Chair, a  
13 couple of points. First of all, that question  
14 calls for a legal conclusion. Separate from  
15 that question, it appears as though this entire  
16 line of questioning relates to an issue of  
17 property rights and Mr. Richardson's challenge  
18 to whether or not PSNH has those rights.

19 You'll see in the response he put up to  
20 Newington 1-5 that the Applicant began that by  
21 objecting based on relevance because the  
22 Application has already been accepted by the  
23 Committee.

24 I want to refer the Committee to the April

1           7th, 2017, Order that it issued in the Northern  
2           Pass docket relating to exactly this same issue  
3           when people were challenging property rights,  
4           and the Committee said in that order, quote,  
5           "The Committee does not have the authority to  
6           adjudicate property rights between private  
7           parties. The ultimate determination of property  
8           rights is left to the courts." That's not the  
9           only time the Committee issued an order like  
10          that.

11                 Simply said, the Applicant in this case has  
12           made the prima facie showing that it has the  
13           necessary rights. The Application was accepted.  
14           If any party disputes those rights, the  
15           Committee has already determined the appropriate  
16           way to handle that is in court. It's not before  
17           this Committee. Unless Mr. Richardson, I think,  
18           has some other argument, all of this does not  
19           seem relevant in light of that.

20                 MR. RICHARDSON: I'd like to respond in a  
21           moment, if I may. The first thing, obviously, I  
22           did not, was not involved in the Northern Pass  
23           docket, and the Committee when it makes rulings  
24           it does so in specific cases. It doesn't create

1           rulings of law like courts do. There's no  
2           binding precedent in this docket.

3           Second of all, there's two reasons why this  
4           is relevant. First of all, the Applicant made  
5           it relevant when they submitted testimony that  
6           said that they have all of the necessary rights  
7           when I just don't believe that this is true, and  
8           I think we've laid the ground work for this, and  
9           I don't have too much more to say on that. I  
10          may be even at the end of it.

11          But the other piece that I think is  
12          relevant is that this Committee has an  
13          Application before it, and certainly whether or  
14          not the Applicant has the rights to actually  
15          build it is important to the public interest  
16          criteria, it also relates to what the impact is  
17          going to be on landowners and where, which is  
18          actually where my next line of questioning is to  
19          show where the property lines are and where the  
20          impacts are.

21          So I do think it's a, I think they've  
22          opened the door by submitting the testimony that  
23          they submitted, and now we need to point out  
24          inconsistencies with it.

1           MR. NEEDLEMAN: Madam Chair? The testimony  
2 supported the specific rule that the Committee  
3 has which says that an Applicant when it files  
4 an Application has to come forward with some  
5 demonstration that it has the requisite rights.  
6 We came forward with that demonstration. We  
7 offered the evidence that we have of those  
8 rights. We stand by those rights and the  
9 Application was accepted.

10           I understand the argument that prior  
11 rulings are not necessarily precedential, but  
12 when they are on the exact same point, I think  
13 they have significant value, and I would also  
14 say it's not the first time that this Committee  
15 or in a parallel proceeding the PUC has looked  
16 at this issue and handled it that way. Neither  
17 of these bodies are bodies designed to  
18 adjudicate rights, and that's exactly what  
19 Mr. Richardson is asking you to do.

20           PRESIDING OFFICER WEATHERSBY: I'm going to  
21 sustain the objection to this question and going  
22 to ask you to move along to your next question  
23 concerning the property lines, et cetera.

24           MR. RICHARDSON: Absolutely, and I would

1           like to do that.

2           PRESIDING OFFICER WEATHERSBY: I'm  
3           sustaining it on the basis that it did call for  
4           a legal conclusion.

5           MR. RICHARDSON: That's fine, and I'll  
6           stand with that. I'm not going to ask the  
7           question again. It occurs to me though that  
8           there's another important piece to this puzzle,  
9           and I know we're going to run into that very  
10          shortly. So I'd like to say now, so the DES in  
11          its permitting decisions, the February 28th,  
12          2018 --

13          PRESIDING OFFICER WEATHERSBY: If you could  
14          move on to your next question and not make your  
15          argument. Save that for later.

16          MR. RICHARDSON: Okay. Thank you.

17 BY MR. RICHARDSON:

18 Q       Let me grab my next exhibit which is on the  
19       table over there.

20                So setting aside whether or not Eversource  
21       has the property rights as an owner, I want to  
22       ask you about a response that Eversource gave to  
23       a Data Request. And this is, it's in Newington  
24       Exhibit 4 and its response to 1-20. I'll bring

1           you a copy, and I'll put it up on the screen.

2           Now, you'll see here the question posed was  
3 whether Eversource is willing to exercise its  
4 eminent domain authority to acquire property  
5 rights for the purpose of burying any portions  
6 of the Project's transmission line in the Town  
7 of Newington, and I want to turn your attention  
8 to the last sentence, but feel free to review  
9 the entire response if you'd like.

10           My question relates to that last sentence  
11 where it says, therefore, the exercise of the  
12 Applicant's eminent domain authority was not and  
13 is not necessary or required.

14           PRESIDING OFFICER WEATHERSBY: And your  
15 question is?

16           MR. RICHARDSON: I was going to, once the  
17 witness has answered it, then I wanted to ask  
18 the question. So that's, I haven't asked it  
19 yet.

20 BY MS. RICHARDSON:

21 Q       Have you had a chance to read that?

22 A       (Bowes) Yes, I have.

23 Q       Is that response still true and accurate?

24 A       (Bowes) It is today, yes.

1 Q Would the Applicant be willing to accept a  
2 condition from this Committee that it not use  
3 eminent domain to acquire my client's property?

4 A (Bowes) Today we are not going to be placing any  
5 facilities on your client's property.

6 Q Okay.

7 A (Bowes) We're entirely within the Beswick  
8 property.

9 Q So you answered that not by saying, well, you  
10 answered that by saying what your intention is  
11 today, but my question to you was would PSNH  
12 agree to accept that it not use eminent domain  
13 as a condition if the Committee were to impose  
14 it?

15 A (Bowes) I think I'd like to see the condition  
16 first, and if you withdrew from the case and  
17 your client withdrew, it would probably go a  
18 long way to be a positive outcome.

19 Q I'm not sure I understand that question, but let  
20 me set that aside.

21 A (Bowes) Well, sounds like we're negotiating now,  
22 right?

23 Q Well, I'm asking you whether this statement is  
24 true or not. But let me, let me focus on this

1 piece of it. You've agreed that you don't need  
2 eminent domain to use it. I guess the question  
3 is would you go the next level and back it up by  
4 saying we would agree to a condition that we  
5 won't use it. That's my question.

6 A (Bowes) I guess I'd have to understand the full  
7 context, with the attorneys before I answer.

8 Q I guess the answer is you don't know today.

9 A (Bowes) We have no plans to use eminent domain.  
10 We believe we have all the rights. We don't  
11 believe we're going to be on your client's  
12 property.

13 Q Let's backtrack a little bit, and I'd like to go  
14 to the document that you have in front of you.  
15 It's JCT Exhibit 16. This is one of the new  
16 ones that I handed out today.

17 I think this was alluded to before, but you  
18 can see I've placed a pen down on the screen,  
19 probably see it behind you as well, where the  
20 corner of the Crowley Joyce Trust property is.  
21 And it looks like that green line is crossing  
22 over the property line. Is that what that  
23 shows?

24 A (Bowes) I believe the green area is the wetland.

1 Q The green area is the wetland, but then, you're  
2 not testifying today that the construction  
3 footprint is going to be limited to just the red  
4 area that's shown there, right? There's going  
5 to be construction work that's required outside.

6 A (Bowes) Outside of the green area?

7 Q That's, well, outside of -- you see this,  
8 there's this red line right here, and then  
9 there's an envelope, excuse me, there's an  
10 envelope outside of where the barge laydown is.  
11 What is that envelope?

12 A (Bowes) If I move the sheet on the ELMO, there's  
13 a key to the bottom left, and that identifies a  
14 wetland.

15 Q Okay. So that's the wetland. Where is the  
16 footprint of the construction work that's going  
17 to be done in the bay?

18 A (Bowes) Generally within a 1000-foot corridor,  
19 but obviously, there's going to be shipments  
20 from Portsmouth up into Little Bay to get to  
21 that corridor, but in general, it's all within  
22 that 1000-foot wide corridor.

23 Q 100-foot-wide, I believe you mean.

24 A (Bowes) No. It's a thousand in the bay.

1 Q Okay. So you're moving, you're moving to the  
2 left, to the right, as what's shown on that  
3 Exhibit 16, you're moving outside of those areas  
4 as you dig the trench. How far to the left or  
5 to the right is it, are you going to need to go?  
6 Because I believe, well, let's answer that if  
7 you can for each of the construction techniques  
8 you're going to be using.

9 A (Bowes) Could you rephrase the question?

10 Q I think that's a good idea.

11 I think it's a little bit clearer and less  
12 loud and cluttered if we turn back to Exhibit  
13 13. Now, this Exhibit came up, this is part of  
14 what's in Applicant's Exhibit, it's either 122  
15 or 123. I believe it's page 28, and it's your  
16 construction drawings, the revised ones. Do you  
17 recognize these plans?

18 A (Bowes) Yes.

19 Q And you were here when I asked questions from  
20 Mr. Quinlan, right?

21 A (Bowes) Yes, I was.

22 Q So you're aware there's a red line here that  
23 I've drawn on this or marked it up and I showed  
24 it to him. And that red line that I pointed to,

1           that's the property line, right?

2       A     (Bowes) No.

3       Q     What is that?

4       A     (Bowes) You've drawn, you've extrapolated a line  
5           past the property line into Little Bay.

6       Q     Okay. But the line that I have extrapolated --

7       A     (Bowes) The marker is shown on the property  
8           line.

9       Q     -- is the property line.

10      A     (Bowes) The marker is, yes.

11      Q     So the marker shown on the property, is it  
12           typical in property conveyances to put the  
13           property marker in Little Bay? Does that work?

14      A     (Bowes) I don't know.

15      Q     You don't know. Well, I'll represent to you  
16           that it doesn't because of ice, because the bay  
17           freezes, and, therefore, a monument has to be  
18           placed. But as we know from the Beswick deed  
19           which was Exhibit 15, and from JCT Exhibit 1,  
20           and from your response to my questions about  
21           that, the property line goes to the edge of  
22           water. I believe that's what you indicated,  
23           right?

24      A     (Bowes) In laymen's terms, yes. I think it's

1           actually mean high water mark.

2           Q       So that monument is above mean high water, and  
3           then when you see --

4           A       (Bowes) I don't know that.

5           Q       Okay. Let's look at JCT Exhibit 13, and you'll  
6           see where I underlined when I was asking  
7           Mr. Quinlan questions where it says surveyed  
8           edge of water, right?

9           A       (Bowes) Yes. That's where the water was when  
10          the survey was done.

11          Q       And earlier today I believe in response to what  
12          Ms. Frink said, you said that the GIS data  
13          that's shown on the Environmental Maps and  
14          Plans, they're not always reliable. And I  
15          believe your response was it's best to go to the  
16          source. Is that a fair characterization of what  
17          you said to Ms. Frink today?

18          A       (Bowes) So the lead-in to that was actually my  
19          testimony, not hers.

20          Q       Yes.

21          A       (Bowes) About the overlays of the various GIS  
22          data.

23          Q       Correct.

24          A       (Bowes) Yes. Going to the source data is the

1 best solution to try to find the specific  
2 locations.

3 Q In here it appears that Eversource has surveyed  
4 the edge of the water, right? That's what this  
5 exhibit shows?

6 A (Bowes) Yes. But it is not the mean high water  
7 mark. Otherwise, it would have been identified  
8 that way.

9 Q So you're essentially saying the property line  
10 could be anywhere or the water line could be  
11 anywhere, and we don't know unless we looked at  
12 the exact tide on that date?

13 A (Bowes) I didn't say that.

14 Q Okay. Well, certainly if the edge of the water  
15 were the property line and if it were taken at  
16 mean high tide, this would show your Project  
17 crossing my client's property, right? Let's  
18 assume that this is actually representing mean  
19 high tide.

20 A (Bowes) It does not. I have a diagram that  
21 shows this much clearer than this document based  
22 upon, again, on those source datas.

23 Q So are you asking the Committee to approve your  
24 Project based on plans that are unclear?

1           MR. NEEDLEMAN: Objection. Same objection  
2 as before. This is a property rights argument,  
3 and again, that is certainly not what we're  
4 asking the Committee to do. We've identified  
5 the rights with specificity.

6           MR. RICHARDSON: May I respond? I don't  
7 think there is any specificity, and he's just  
8 told me that what is the edge of the water isn't  
9 the edge of the water. It may or may not be and  
10 some other document is. I don't even know if  
11 that document is before the Committee right now.  
12 So I think we can only look at the plans that we  
13 have in front of us. So this is a critical  
14 question.

15           PRESIDING OFFICER WEATHERSBY: I'm going to  
16 overrule the objection. I think that the  
17 location of the easement is relevant to the  
18 Committee.

19 BY MR. RICHARDSON:

20 Q       So are you asking the Committee to approve this  
21 Project based on plans that don't clearly show  
22 where the water line is?

23 A       (Bowes) I don't believe that the Committee needs  
24 to know where the mean high water mark is to

1           make a determination for this Project. That's  
2           the purview of the New Hampshire DES.

3       Q     So you haven't provided them or can you tell me  
4           where you've provided this Committee with a  
5           diagram showing where the mean high water mark  
6           is?

7       A     (Bowes) We have not.

8       Q     Okay. You're aware that you're required to do  
9           so under the wetland rules and under the  
10          Shoreland Application rules, right?

11      A     (Bowes) I am not aware of that.

12      Q     Okay. So you don't know whether or not you  
13          provided that, but there may be rules out there  
14          that require that, and you just don't know about  
15          that either?

16               MR. NEEDLEMAN: Is there a citation that  
17          you're relying on so you can show the witness?

18               MR. RICHARDSON: I planned not to go into  
19          the environmental regulations with this group,  
20          knowing there's a Environmental Panel. So I  
21          think it's fair to ask him whether or not he  
22          knows of anything that identifies where those  
23          lines are or whether he happens to know what  
24          the, that there is that requirement.

1 MR. NEEDLEMAN: If you're making  
2 representations to a witness about what a rule  
3 means and you're asking him questions, I think  
4 it's reasonable to show them the rule.

5 PRESIDING OFFICER WEATHERSBY: So objection  
6 is sustained. I think you can argue or phrase  
7 your questions in another manner.

8 MR. RICHARDSON: Okay.

9 BY MR. RICHARDSON:

10 Q I want to show you -- which one are we on now?

11 MR. IACOPINO: I believe we're on 13 now.

12 Q No, no, no. I know. I was going through them  
13 in order, and we jumped back for one. So I  
14 think the last Exhibit I would like to show you  
15 is the last one. It's the one that's not added  
16 to the list, but it's the last page in the  
17 folder that you have. I'll put it up for you.

18 So this is what's been marked as JCT  
19 Exhibit 17, and I'll represent to you it's in  
20 Applicant's Exhibit 34, page 29, which is  
21 actually the Shoreline Application Permit. And  
22 do you follow me where you see those green lines  
23 go across the corner of my client's property?

24 A (Bowes) They appear to, yes.

1 Q Okay. But these plans aren't certain because we  
2 don't know where the property line is. We don't  
3 know where the water line is, excuse me.

4 A (Bowes) So I think that there's two separate  
5 questions you've put together. Whether we know  
6 where the mean high water mark is is different  
7 than what this plan represents and its accuracy.

8 Q So there's three things that are happening with  
9 the Project here. You agree with me it's in  
10 front of my client's property, right?

11 A (Bowes) I would say in back of your client's  
12 property.

13 Q But if you're looking at the water it's directly  
14 in front of you.

15 A (Bowes) Clearly.

16 Q And clearly, people build houses so they can see  
17 the water.

18 A (Bowes) Yes.

19 Q Now, there's three types of construction that  
20 are going to occur in this area, and I believe  
21 they're all actually in the zone that's depicted  
22 here. There's a, and this may be for your  
23 Construction Panel as well, there's the jet  
24 plowing as it approaches the shoreline. Then

1 the water depth gets shallower, and you see the  
2 area where that area is. That's why barges are,  
3 and I assume that's a transition to the hand  
4 jetting, right?

5 A (Dodeman) That's correct.

6 Q Okay. And then at some point maybe where that  
7 arrow is in the right half of Exhibit JCT 17,  
8 there's then a transition to the actual  
9 construction work using land-based equipment,  
10 right?

11 A (Dodeman) That's also correct.

12 Q And that means that construction equipment,  
13 personnel, jetting equipment, barges, they're  
14 all going to be moving in and out of that zone.

15 A (Bowes) Yes.

16 Q Okay. Now, how far to the right and to the left  
17 do they have to go when you're at the area  
18 that's shown to be the corner of my client's  
19 property? What's happening there?

20 A (Bowes) So at the corner of the property where  
21 the cables come on shore, there's about a  
22 12-foot separation between where the cable, the  
23 closest cable, and your client's property is.  
24 So in that 12 feet, there's going to be some

1 activity to put the trench in and then put the  
2 cable in and then restore the on-land portion.

3 But there's still, I know this diagram  
4 doesn't necessarily show it very well. There's  
5 about 12 feet of separation between your  
6 client's property line and our closest cable.

7 Q That is making an assumption about where the  
8 property line is, isn't it?

9 A (Bowes) Again, based on the source documents.

10 Q So we see the, I've brought JCT Exhibit 13 back  
11 up, and you'll agree with me that where I have  
12 circled on that plan, there's an iron pin there  
13 showing the property boundary, right?

14 A (Bowes) No.

15 Q Okay. That's not a property iron pin that's  
16 there?

17 A (Bowes) I think it's a concrete.

18 Q It's a concrete marker.

19 A (Bowes) Yes.

20 Q So like a boundary marker.

21 A (Bowes) Yes.

22 Q Okay. So if the property line were to continue  
23 and the water line is lower than the edge of  
24 water, well, it's probably not lower than the

1 mean high water, but if it is actually what's  
2 shown here, they're not 12 feet of separation  
3 because if that line continues down, you're  
4 going to cross it, right?

5 A (Bowes) Based on our survey data that we've  
6 taken, we do not believe we're on your client's  
7 property at all. There will be a 12-foot  
8 separation. We have diagrams to display that.

9 MR. RICHARDSON: I know there's a  
10 reluctance to allow record requests, but I feel  
11 that this is an important request to make in  
12 light of this. I was not expecting the property  
13 line to be anything different than what, the  
14 edge of water to be anything different than what  
15 the line shows. So I would like to make a  
16 request for that survey which depicts the  
17 12-foot separation.

18 MR. IACOPINO: Is there an objection?

19 MR. NEEDLEMAN: No. No objection.

20 PRESIDING OFFICER WEATHERSBY: Okay. So  
21 that request is made and the request is for the  
22 survey that shows the mean high water mark?  
23 Could you tell us exactly what your request is?

24 MR. RICHARDSON: Sure. I believe that Mr.

1           Bowes described a survey that showed a 12-foot  
2           separation between the Project and my client's  
3           property. So I was asking for what he referred  
4           to, and perhaps he could even explain what he  
5           understands the document to be.

6           PRESIDING OFFICER WEATHERSBY: Mr. Bowes,  
7           do you understand what is being asked?

8           A     (Bowes) I do. We've prepared a document that  
9           shows the existing property boundary of the  
10          Crowley Trust, the location of where our cables  
11          would be in detail, so basically a much more  
12          detailed blowup of the Newington coming ashore  
13          location of our Project and their property line.

14          PRESIDING OFFICER WEATHERSBY: Okay. So  
15          that is what is being requested. And do we have  
16          a time frame that could be provided to us in?

17          MR. NEEDLEMAN: We can provide it now.

18          PRESIDING OFFICER WEATHERSBY: Okay. Thank  
19          you.

20          MR. NEEDLEMAN: I don't know if we have the  
21          capability to scan it and email it to everybody  
22          right now, but --

23          PRESIDING OFFICER WEATHERSBY: Some time  
24          today?

1           MR. RICHARDSON: Could we mark it as an  
2 exhibit and then the parties, I could photograph  
3 with my camera, I could look at it at the end of  
4 the day today.

5           MR. NEEDLEMAN: We can scan it and email it  
6 if you want to give us a couple minutes.

7           PRESIDING OFFICER WEATHERSBY: That's fine.  
8 Thank you.

9 BY MR. RICHARDS:

10 Q Mr. Dodeman, these questions may be for you. I  
11 believe that there is this -- I put up JCT  
12 Exhibit 13 on the ELMO, what appears to be some  
13 type of a vault. Can you tell me what that is  
14 and how deep it is?

15 A (Dodeman) That vault would be, I believe would  
16 finally sit below grade. That vault is the  
17 transition vault where the submarine cable is  
18 jointed or joined to the land cable. It's an  
19 underground vault. The three joints would sit  
20 inside of that vault.

21 Q Can you, I don't know if you have Exhibit 13 in  
22 front of you, but can you tell the Committee and  
23 explain to me where that vault is located on  
24 this plan?

1 A (Dodeman) Yes. If you just keep moving, moving  
2 up the line, it's actually called "manhole."  
3 And you can see the outline of that vault shape.  
4 It says station 450, point, I believe it says  
5 54, but my eyes are not --

6 A (Bowes) 64.

7 Q And how deep does that vault go below grade?

8 A (Dodeman) About 12 feet.

9 Q And in order to construct a vault that's 12 feet  
10 deep, you're going to have to bring an excavator  
11 down there, I assume?

12 A (Dodeman) That's correct.

13 Q And rock removing equipment of some kind, if  
14 there's ledge?

15 A (Dodeman) If there's ledge, we were planning on  
16 doing sort of excavation.

17 Q Okay. So help me to understand here where  
18 within, if I understand correctly the survey  
19 plan that I obviously haven't seen yet, where  
20 within 12 feet of the property line at some  
21 point, how do you move equipment, excavate  
22 materials, within 12 feet of the property line  
23 when you're transitioning up to and building  
24 this vault?

1 A (Dodeman) It's my understanding that at this  
2 location of the vault we are further away than  
3 12 feet from the property line.

4 Q Understood, but somebody's going to be, in  
5 addition to excavating the vault that's 12 feet  
6 below grade, you're also excavating to bring the  
7 lines in to the vault and then out the other  
8 side, and that's a pretty confined environment  
9 in terms of the space you have to work with,  
10 right?

11 A (Dodeman) That is a confined environment, but  
12 it's nothing out of the ordinary for this type  
13 of Project.

14 Q So how do you ordinarily, how much space do you  
15 require to do that?

16 A (Bowes) So we oftentimes put these vaults in  
17 city streets so it takes one travel lane.

18 Q But when you work in a city street, you have a  
19 staging area that's asphalt. Here we're on a  
20 shoreline that's a natural forested environment.  
21 You're on organic soils as opposed to pavement.  
22 How is this going to work without impacting my  
23 client's property?

24 A (Dodeman) Your client's property shouldn't be

1 impacted at all by any contact.

2 Q So how are you going to remove the materials?  
3 Are you going to take them up along the line?  
4 You're going to load them from an excavator into  
5 a dump truck? Or how is that going to work?

6 A (Dodeman) I believe the present plan is to side  
7 cast to the north and use existing backfill  
8 where needed. If there's any overburden that  
9 needs to be taken away, that can be taken away  
10 in a truck.

11 Q If I understand, I'm going to bring up JCT  
12 Exhibit 17, that's the area in which you're  
13 permitted to work, right?

14 A (Dodeman) That is my understanding, yes.

15 Q And obviously, setting aside whether it's  
16 accurate, this plan shows that you are up to the  
17 property line where those construction work is  
18 being done.

19 A (Dodeman) No. I disagree with that. I think we  
20 are away from the property line by enough  
21 distance that we can't say we're contacting the  
22 property line. So we're not up to the property  
23 line.

24 Q Okay. But you might be within a foot of it.

1 A (Dodeman) Yeah. That's fair to say.

2 Q Okay. So very, very close. I mean, I didn't  
3 mean to suggest that you were intentionally  
4 trespassing, but it does appear at least on this  
5 plan that the green lines for the cables are on  
6 the property. So it's hard to rely on what this  
7 says, isn't it?

8 A (Dodeman) I would have to refer for property  
9 rights back to legal. I don't know.

10 Q But so I guess what I'm showing is you can see  
11 as well as I can. This goes across my client's  
12 property, at least as it's shown on this plan,  
13 but that's not what you're going to do, right?

14 A (Bowes) That is correct. We'll not be on your  
15 client's property.

16 Q So in that sense, this plan isn't really  
17 reliable because it shows something that's not  
18 going to happen, and if we really want to know  
19 where it's going to be, we need to look at that  
20 other document which none of the Committee  
21 members have and none of the parties have seen  
22 to date.

23 A (Bowes) So I would phrase it a little bit  
24 differently. We'll certainly provide the

1 document. There's already been a record  
2 request.

3 Q Have any of the parties --

4 (Court reporter interruption)

5 A (Bowes) This document was really intended for  
6 where the general construction activities would  
7 take place, and you can see the intent clearly  
8 on this diagram was that we weren't going to go  
9 onto the Crowley property. We didn't permit to  
10 go on there. So I think it's really just a  
11 matter of, I know I've said this before, it's  
12 the underlying data sources in this case. It  
13 was not intentional to show it on your client's  
14 property. I think it's just the nature of the  
15 process. The land rights are what determine  
16 that. And you can see by this long strength  
17 along your client's property, we never intended  
18 to be on your client's property, even in this  
19 depiction.

20 Q Sorry. Just to follow up. And I accept that  
21 explanation. I'm not disputing that anyone is  
22 intended to do wrong here. But there's nothing  
23 in the Application, if we can't rely on this  
24 plan, there's not another plan that's going to

1 show us in greater detail. We've gone through  
2 JCT Exhibit 13, the engineering drawings, we've  
3 looked at the Environmental Maps which you  
4 indicated earlier in response to Mrs. Frink we  
5 couldn't rely on and this one we can't rely on  
6 either. Can you point me to something that  
7 would show where the correct property lines are?

8 MR. NEEDLEMAN: Objection. The witness has  
9 never said the documents can't be relied on.

10 MR. RICHARDSON: I'll withdraw the  
11 question. I'm not withdrawing my intent in  
12 asking it though.

13 BY MR. RICHARDSON:

14 Q So let's change gears a little bit if we can.

15 I want to compare the pre-existing easement  
16 that was released to the proposed one and look  
17 at the compare, compare and contrast the impact.  
18 So this is going to be a question really for the  
19 whole team, particularly the construction  
20 members.

21 Let's start though with JCT exhibit number  
22 8 and that's the 1974 photo. Can any of the  
23 members of team agree with me that shows the  
24 1950 easement, as it were, as it existed in

1 1974.

2 A (Bowes) What number was that?

3 Q JCT number 8.

4 A (Bowes) I'm sorry. I can't read that. Maybe I  
5 just have a bad copy.

6 Q Okay.

7 A (Bowes) My Exhibit 8 also, just so we're clear,  
8 my Exhibit 8 says Gundalow Landing in 1974.  
9 Maybe it's a different number.

10 Q Correct. No, that's what I was trying to get  
11 at. This is, we're looking at an air photo in  
12 1974 that shows where the easement used to be.

13 A (Bowes) Maybe if you put it up on the screen so  
14 others can see my challenge.

15 Q Sure. No, no. I admit. As somebody who has a  
16 degree in remote sensing, these can be a  
17 challenge. So if I turn your attention to 13,  
18 the one we looked at at length. You can  
19 actually see where it says "former easement  
20 access." Right up on top. And then this is  
21 kind of what it looks like in the ground.  
22 Obviously before it was developed. 1974. You  
23 can see the line go straight across. I'm just  
24 trying to show that is the correct location as

1 far as you understand, right?

2 A (Bowes) I'll accept that, Yes.

3 Q JCT Exhibit 9, and I'll represent to you this is  
4 either in '92 or '98. The GIS system doesn't  
5 identify the year or it can change, and I wasn't  
6 able to figure out where that was, but you can  
7 certainly see in here there appears to be the  
8 existing swimming pool, and I can show you a  
9 better picture of that. But that, this depicts  
10 what it would have looked like somewhere in that  
11 time frame.

12 A (Bowes) I'll accept that as well.

13 Q All right.

14 A (Bowes) I think we're starting to see some of  
15 the data challenges, even by your own exhibits.

16 Q Certainly. Certainly. And that was my reason  
17 for including Exhibit number 10. So here we see  
18 Gundalow Landing. Also from NH GRANIT data  
19 layer. This is an air photo, and obviously, in  
20 the PDFs it's clearer, but you can see the pool  
21 that was allowed. And it looks to me like the  
22 entire easement area is going across this area  
23 of lawn. Do you follow me there? This is the  
24 former easement area.

1 A (Bowes) Yes. I would say so. Lawn and maybe  
2 some buildings as well.

3 Q So then we see the construction is going to go  
4 on, the new line is going to pass through this  
5 area that's all forested. So there's different  
6 impacts between what was in the old easement  
7 area and the new easement area.

8 A (Bowes) I'm just struggling with forested. I  
9 wouldn't call that forested. But the impacts  
10 are clearly different. In fact, when one of the  
11 impacts we're trying to avoid was the rocky area  
12 of the revised easement. We thought this was a  
13 better location to come on shore, and obviously  
14 helps to mitigate the impacts on the Beswick  
15 property.

16 Q And your Shoreline Application, which is  
17 Applicant Exhibit 34, you can see the area  
18 that's depicted there. And this is, I believe,  
19 what's depicted as a salt marsh in some of the  
20 plans, and that's the area where you're coming  
21 ashore, isn't it?

22 A (Bowes) Approximate area, yes.

23 Q And you would agree with me that appears to be  
24 forested.

1 A (Bowes) There are trees there, but I'm sorry. I  
2 can't call Gundalow Landing a forested area.

3 Q Were you on the site visit?

4 A (Bowes) Not on the site visit with the SEC.

5 Q Okay.

6 A (Bowes) Clearly, there are trees there, but when  
7 you're seeing very large properties with  
8 swimming pools and docks, to me that's not a  
9 forested area.

10 Q Right. Right. In fact, that's what this shows  
11 is that there is a fair amount of development on  
12 the Beswick property here. The former easement  
13 area which -- I mean, it's technically possible  
14 to construct across a lawn area, avoid a  
15 swimming pool. It's not that it's impermissible  
16 to do it. It's just that there was an agreement  
17 to relocate it, right?

18 A (Bowes) Correct.

19 Q Okay. And that relocation is going to bring it  
20 right up through that area that we just looked  
21 at.

22 Another thing I want you to look at here.  
23 And this is a little bit nuanced, and I might  
24 have a better picture of it, but you can see

1           where the old cable house is. Is that right  
2           here?

3           A     (Bowes) I believe it is, yes.

4           Q     I mean, they must have known something in the  
5           1950s when they built that because you see how  
6           this photograph is at a lower tide, and you can  
7           see there's a very short stretch of mud or flats  
8           and then it proceeds more or less directly into  
9           deep water where the dock ends.

10          A     (Bowes) I see that, yes.

11          Q     And in contrast, this 2005 photo shows this is a  
12          rock outcropping, and we could look at Exhibit 7  
13          later. That's an area of some concern for  
14          construction, I assume?

15          A     (Bowes) Yes. We would like to avoid that.

16          Q     And then the approach that was on the  
17          Environmental Maps goes all the way in and  
18          across that flat area, and I wanted to bring  
19          that to you in 2005 because I think there's a  
20          better, more recent picture of it, but I just  
21          wanted to give the Committee different  
22          contrasts.

23                         So here we're looking at JCT Exhibit 11  
24                         which is in 2016, and I think this makes pretty

1 clear where you see where the old easement was  
2 there was pretty much direct access to the deep  
3 water and where the new easement is it's a much  
4 longer path through tidal flats.

5 A (Bowes) I would agree it's a longer path, yes.

6 Q And there's also salt marsh impacts that are  
7 going to occur. There is one salt marsh that is  
8 going to be removed down below the pin as shown  
9 on Exhibit JCT 13.

10 A (Bowes) I would defer to the Environmental Panel  
11 for the salt marsh impacts.

12 Q Okay. We've got the technical folks here. And  
13 my question for you is those flats are  
14 indicative of slower moving water, right?

15 A (Dodeman) Typically where you see an accretion  
16 of mud, yes.

17 Q And whereas in off the dock here, the deep  
18 water, that's where more or less the currents  
19 have scoured a deeper channel where there would  
20 be less fine materials, right?

21 A (Dodeman) There's a huge ledge on this landing,  
22 to cut to the chase. It's significant rock.  
23 It's significant elevation. It posed a very  
24 difficult construction challenge to go up this,

1 the old easement. And there was a dock in the  
2 way, and we would have had to have crossed  
3 across a pool, and this was something we looked  
4 at very strictly in the very early stages of the  
5 Project.

6 Q But what happened though is even before that,  
7 wasn't the opportunity to do that taken away?  
8 Because there was an existing cable house that  
9 could have been connected to. Isn't the whole  
10 process, the need to move the line, driven by  
11 the release of the prior easement and not by  
12 environmental constraints?

13 A (Dodeman) No.

14 Q Didn't I hear you testify when we were before  
15 this Committee in the last sessions that the  
16 original proposal, maybe it was Mr. Wall, the  
17 original proposal was to go 8 feet below grade  
18 and then that got reduced to 42 inches or  
19 something like that?

20 A (Bowes) So that was really based upon the amount  
21 of sediment dispersion, the environmental  
22 experts, happened at a Technical Session, and we  
23 had their input, and we agreed to go to a  
24 shallower depth across a channel, with

1           corresponding, it supported the sampling that  
2           we'd already performed which we were able to  
3           only get to five feet. And it also supported  
4           the lower amount of sediment that would be  
5           dispersed during the jet plow operation.

6       Q     So if avoiding sediment is important, this  
7           proposed Project appears to be taking the longer  
8           path through the sediment as opposed to the  
9           shorter one, and it simply comes down to the  
10          steepness of the grade and the need to avoid  
11          ledge.

12       A     (Bowes) I would say there are different  
13          techniques to mitigate sediment dispersion in  
14          the shallow waters. I can give you silt  
15          curtains and hand jetting. I think we can  
16          mitigate that situation very nicely here.

17       Q     Okay. The other piece to the puzzle, and  
18          Mr. Dodeman, if you could respond to this I  
19          would appreciate it, from a technical  
20          standpoint, if Eversource proposed an 8-foot  
21          depth, that's because it believed it was  
22          possible, right?

23       A     (Dodeman) I think in the beginning, I don't know  
24          that they believed it was possible, and

1           certainly we had some core data that shows that  
2           it's not going to be possible all the way across  
3           the bay. But most engineers when they are  
4           designing this type of system, particularly with  
5           submarine cable, assume that deeper is better in  
6           terms of protecting the cable system, and that  
7           is not necessarily the case and it also affects  
8           the ampacity of the system. So we look at a lot  
9           of elements before we decide on a target burial  
10          depth.

11        Q     But I guess what I mean is from a technical  
12           standpoint because I understand and what I'm  
13           really getting at, I'm sure you know, is the  
14           concrete mattresses.

15        A     (Dodeman) Yes.

16        Q     Because if you can get a burial depth of 42  
17           inches, you don't need to use concrete  
18           mattresses, and I'm assuming that because an  
19           8-foot depth was originally proposed, your firm,  
20           the construction contractors, if this Committee  
21           were to say we want those concrete mattresses to  
22           go away by burying the cable deeper, you could  
23           technically do it. I'm setting aside what DES  
24           has done, but that's a constructible outcome.

1 A (Dodeman) That's, there is a level of  
2 speculation there, and just brushing off and  
3 saying "aside from what DES says," I'm beholden  
4 to what DES says so I can't just brush that  
5 aside.

6 Q Obviously, and you'd understand -- strike that.  
7 I'm not going to go there.

8 A (Dodeman) Thank you.

9 Q I was going to ask you about, questions about  
10 DES discussions, but you probably weren't a  
11 party to those, and I think you've testified to  
12 that.

13 You mentioned some uncertainty about what  
14 the sediments were. And I want to show you  
15 this, and I don't have the, this is from the  
16 Seacoast Reliability Project Natural Resource  
17 Existing Conditions Report, and if anyone is  
18 able to come up with what the Applicant's  
19 exhibit number is I'd appreciate it because I  
20 printed it and then I lost it. I'll show you a  
21 copy, and I'll give a copy to your counsel as  
22 well.

23 So first of all, do you recognize what this  
24 document is?

1 A (Dodeman) Yes, sir, I do.

2 Q Are these the sediment sampling data that were  
3 taken for the Project?

4 A (Dodeman) This was the boring data so I believe  
5 these were core, either, some sort of core  
6 drills or cone penetrometer or cores.

7 Q I guess what I'm, and I'm asking this because I  
8 don't know the answer to the question. But I'm  
9 wondering why were there samples taken in Welsh  
10 Cove and why was there no technical exploratory  
11 work done immediately where the crossing is  
12 proposed. You see how you have the LB-9-2,  
13 LB-10-3, that's heading directly towards the  
14 former right-of-way.

15 A (Dodeman) Correct.

16 Q The proposed right-of-way is on the other side  
17 of the dock.

18 A (Dodeman) I see that, but I think at some  
19 point -- I can't tell if these are the original  
20 geotherm bores or if these were supplemental  
21 bores that were done afterwards, and forgive me  
22 for not knowing this document that intimately,  
23 but I believe we did supplemental cores in the  
24 Welsh Cove area just to try to get an indication

1 of what the possible penetration is for a plow  
2 or jetting.

3 Q And I think that I heard one of the panel  
4 members testify that some work was done that  
5 found the ability to excavate down to about five  
6 feet? Is that right? In front of this -- I'm  
7 referring to the area specifically in front of  
8 the Crowley Joyce Trust property.

9 A (Dodeman) I can't speak to that piece of  
10 testimony without a citing.

11 Q But that's, well, setting the testimony aside,  
12 do you know whether or not there's the ability  
13 to put the cable 42 inches below grade to avoid  
14 the concrete mattresses? I mean, if this  
15 Committee is to require that, can you do it?

16 A (Dodeman) Can we do it? We've explored various,  
17 we've discussed various methods on the  
18 construction team, with the Environmental folks,  
19 with some of the engineers at Eversource. We  
20 would certainly give it our level best, but as a  
21 constructor, I operate in contractual terms of  
22 reasonable endeavors. So I can't guarantee  
23 anything. There might be something there I  
24 can't get through with the method proposed, but

1 we've certainly looked at doing our level best  
2 and trying to remove the rock to get to 42  
3 inches.

4 Q The fact that you're right next to a barge  
5 location, on the Environmental Maps, I mean one  
6 technique I've heard, not by Eversource folks  
7 but by other people who've dealt with marine  
8 projects, is that you can actually move the  
9 equipment up on barges and work off of those  
10 directly, move the barge at high tide, anchor it  
11 down and construct a line that would be deep  
12 enough to avoid exposing concrete mattresses on  
13 the shoreline.

14 A (Dodeman) By what means are you talking about on  
15 a barge?

16 Q Well, I guess what I'm, I would put the question  
17 to you to say your firm has the capability to  
18 find a way to do that. That's not out of the  
19 realm of feasible.

20 A (Dodeman) Our subcontractor. My firm is a cable  
21 manufacturer. Our subcontracted firm, we would  
22 have to discuss with them other options to try  
23 to remove rock. There's certain things that we  
24 haven't discussed because we can't begin. We

1 don't have blasting permits for this type of  
2 work. We don't, we never looked at exploring  
3 that type of thing.

4 Q Am I misdirecting my questions to you that I  
5 should direct to Mr. Wall or another member of  
6 panel on this?

7 A (Dodeman) No. I think we're in the same, I  
8 think we're on the same boat. I mean, there's  
9 certain pneumatic tools that are effectively  
10 like a jackhammer that's placed on the end of an  
11 excavator called a hoe ram. Somebody mentioned  
12 the use of that in another part of the Project,  
13 and we've explored the use of that as well.

14 But when it comes to removing overburden,  
15 again, we are very limited in what we can do in  
16 terms of options with the existing permits that  
17 we've looked at. So we can't do blasting. We  
18 haven't talked about any other really  
19 significant excavation techniques.

20 Q Were you at the DES --

21 A (Dodeman) I was not.

22 Q I'm sorry. Were you at the informational  
23 sessions that the Committee held, I think this  
24 was back in August of 2016?

1 A (Dodeman) I can't remember if I was. Were these  
2 the technical sessions?

3 A (Bowes) You mean the technical sessions?

4 Q No, no, I was referring to there was like a  
5 public informational hearing that was held at  
6 the beginning. There was one in Newington and  
7 one in Durham.

8 A (Dodeman) I may have been. I can't say with  
9 accuracy.

10 Q Okay. Let me show you the second page of JCT  
11 Exhibit 7. That's the view from in front of my  
12 client's property. And it's, you'll be better  
13 served looking at the electronic copies and  
14 maybe Mr. Bowes, because you're the property  
15 person you might be able to help me out here.  
16 But the salt marsh that's being removed and the  
17 one through which the debated property line if  
18 we were to extend it into the water, that's over  
19 in this area, right?

20 A (Bowes) I've never seen this view before. So  
21 I'm not sure I can help.

22 Q This is in the exhibits, and that's the view,  
23 and this is the ledge area or the outcropping  
24 for the Beswick property. And then the line is

1 going to come in and it has to bend around that  
2 rock outcrop in order to come up onto the  
3 shoreline into this area over here.

4 So I've lost my question in the process of  
5 explaining this. So my question really to you  
6 is just, has any exploratory work been done here  
7 to figure out what the depth of the bedrock is?

8 A (Dodeman) When I was employed at Caldwell,  
9 Caldwell had an engineer come up and just do  
10 manual probes, literally with a section of  
11 rebar.

12 Q Okay.

13 A (Dodeman) To see what kind of depth they could  
14 get, but you understand, you said you know  
15 remote sensing, where it's, when you're sticking  
16 a piece of rebar in the soil that's inundated  
17 with rocks, some areas you can get four feet of  
18 burial and other areas you cannot. So we  
19 weren't allowed to do any removal for  
20 significant testing at the time.

21 Q Did you ever discuss with, I guess in your case  
22 you'd have to discuss with Eversource, that  
23 presents challenges in your ability to evaluate  
24 what construction technique you're going to use,

1           where the concrete mattresses are going be and  
2           where they're not?

3       A     (Dodeman) Again, I'm bidding to a Project  
4           specification on a reasonable endeavors basis.  
5           So we kept it very general. Where we can't get  
6           42 inches, we put concrete mattresses.

7       Q     I guess what I'm wondering is why didn't you  
8           approach Eversource and say look, we really need  
9           to know this so we know what we're going to be  
10          building?

11      A     (Dodeman) Because it wasn't, the documentation  
12          that I needed to provide a bid for this Project  
13          didn't require me to do that.

14      Q     So you were essentially responding to what  
15          Eversource had told you they needed. You  
16          weren't involved in making the decisions about  
17          what exploratory work, what technical data would  
18          be available here. You just had to take what  
19          was given to you?

20      A     (Dodeman) That's initially all we had was a  
21          little bit of basic survey data.

22      Q     So when Caldwell was out there, you were doing  
23          that in response to a bid or you were doing  
24          that --

1 A (Dodeman) Only in response to a bid.

2 Q Okay. Let me do one last thing on this subject,  
3 and then we'll move on to the last one.

4 So I'm going to show you the Seacoast  
5 Reliability Project Salt Marsh Restoration Plan,  
6 and it's Sheet 4 of 4.

7 MR. IACOPINO: Does this have an exhibit  
8 number?

9 MR. RICHARDSON: It does, but I didn't  
10 anticipate using it so I can't tell you what it  
11 is. It is from the Applicant's materials.

12 BY MR. RICHARDSON:

13 Q My reason for showing this to you is I just  
14 wanted to link what was in the photo in JCT  
15 Exhibit 7 where I pointed to that salt marsh  
16 that was along the shoreline, and then you can  
17 see in this document the manholes there and then  
18 the line comes right up, it clips the edge of  
19 that salt marsh, and that was what I was  
20 referring to as the extension of the disputed  
21 property line.

22 MR. IACOPINO: For the Committee's view, I  
23 think this is Applicant's Exhibit 108.

24 MR. RICHARDSON: Thank you. I appreciate

1           that. It helps for the record tremendously.

2           MR. IACOPINO: Yes, it does.

3           MR. RICHARDSON: Yes. No, no, absolutely.

4           And I'd like to --

5 BY MR. RICHARDSON:

6 Q       So does that help clarify my question about, in  
7       Exhibit 7, that that was the salt marsh that was  
8       being impacted and where that was?

9 A       (Bowes) Yes, it does.

10 Q      Okay. Thank you. I want to show you the DES  
11      Final Decision, and that's Applicant's Exhibit  
12      166. I'm going to page 19. I'm assuming you  
13      don't have a copy, and I'll bring you one.

14 A      (Bowes) I'd like a copy, yes.

15                 (Mr. Richardson handing out exhibits)

16 Q      I'd like to draw your attention to a couple  
17      findings that DES made. So let's go to what  
18      should be marked as page 19 of 25 on this  
19      document that's Applicant's Exhibit 166. I  
20      assume, obviously these members of the team have  
21      seen this document. I believe Mr. Wall  
22      indicated he had reviewed it. Is that right?

23 A      (Bowes) Yes, we have.

24 Q      So let's look at paragraph number 4 under

1 findings.

2 MR. IACOPINO: Did you say page 19?

3 MR. RICHARDSON: Yes, you're discovering  
4 the problem of PDF pages versus the document  
5 number so you may have to go to page 20 because  
6 of the cover letter, but it's finding, and if  
7 you look up on the top, it says page 19 of 25 up  
8 in the header.

9 BY MR. RICHARDSON:

10 Q I've got it up on the screen for you as well.  
11 But what I want to read to you is paragraph 4.  
12 The Project proposes all work to be within an  
13 existing power line right-of-way.

14 Now, this goes all the way back to the  
15 beginning of my questions today. In fact, the  
16 landing is in the new right-of-way that was  
17 November 20th, 2015, right?

18 A (Bowes) Yes, as well as city streets, as well as  
19 road crossings. So this has some, I won't say  
20 it's inaccurate, but it's not necessarily  
21 complete.

22 Q Right, right. It's not accurate with the  
23 respect to the area in front of my client's  
24 property. Obviously you're right for the bulk

1 of the 12.9 miles, I'm sure. But in terms of  
2 that, where it arrives on the shoreline, it's  
3 actually not in the existing right-of-way until  
4 it comes on to land.

5 A (Bowes) Like I say, I would have probably been  
6 more definitive and more complete in this answer  
7 because there are town roads that we cross,  
8 there are State roads that we cross that aren't  
9 necessarily where the existing line is, at least  
10 in the case of the town road. So they could  
11 have been more complete in their statement.

12 Q Right. Because in some cases that statement  
13 isn't true.

14 A (Bowes) I'll let them speak to their document.

15 Q Okay.

16 A (Bowes) I would have been more precise.

17 Q But you would agree with me that with respect to  
18 the impacts in that salt marsh area, they're not  
19 in an existing right-of-way. They're in a new  
20 right-of-way.

21 A (Bowes) So on the land portion, so again, what's  
22 existing? 2015 existing? Maybe at the time  
23 this was written, it's accurate, but I can  
24 clearly see your argument.

1 Q Yeah. Yeah. Okay. Thank you. Now, let's go  
2 on to the next page, and I'm going to show you  
3 paragraph number 10. And this is DES's  
4 determination, and I'm not going to ask you to  
5 explain their rule citations. I just want to  
6 bring to your attention. They say in the first  
7 sentence, "The Applicant indicates their  
8 Application and plan is the alternative with the  
9 least adverse impact to areas and environments  
10 under the Department's jurisdiction."

11 And then one of their findings says in  
12 paragraph (f) you see "impacts to estuarine  
13 wetlands are restricted to an existing cable  
14 crossing corridor which has been utilized in the  
15 past."

16 This is my question. Didn't DES get that  
17 wrong because the existing cable corridor  
18 utilized in the past is on the other side of the  
19 dock. That's the 1950 easement.

20 A (Bowes) So remember that in the bay it's a  
21 thousand foot cable corridor, and previous  
22 cables have shifted within that corridor, but  
23 they still remain there. So I think in this  
24 case they're talking about that thousand foot

1 wide established in 1902 or so.

2 Q But at least in terms of when we're looking at  
3 the wetlands impacts on the shoreline and where  
4 this cable lands, it's completely outside of  
5 that existing right-of-way. So this statement  
6 is not a hundred percent correct.

7 MR. NEEDLEMAN: Objection. The witness  
8 just answered the question and said that it is  
9 correct.

10 MR. RICHARDSON: I'm just following up to  
11 point out that there is a exception where it's  
12 not true.

13 PRESIDING OFFICER WEATHERSBY: I don't  
14 think he answered that question. His last  
15 question was dealing with the impacts to the  
16 wetlands, whereas the prior previous question  
17 was concerning the right-of-way itself. So I'm  
18 going to allow the question.

19 A (Bowes) So just to be clear on page 20 of 25,  
20 condition 10, or F, part (f), I believe they're  
21 talking about the existing cable corridor being  
22 a thousand-foot-wide corridor which we are still  
23 within. So that has been unchanged since 1902.

24 Q Well, let me find a better way to hone in on

1           that because if we were looking at what it says  
2           in paragraph (f), impacts to estuarine wetlands  
3           are restricted to the existing cable corridor,  
4           that's not true for all of the wetlands impacts  
5           because the impacts in front of my client's  
6           property just aren't in an existing corridor  
7           before the 2015 one that was negotiated with  
8           Beswick.

9           A     (Bowes) I think we're parsing words here. The  
10           on-land portion is the agreement with Beswick.  
11           The inwater portion has been consistent since  
12           1902.

13           Q     Okay. Page 21, finding number 25. Maybe if I  
14           were wiser, I would have started with this one.  
15           But DES makes a finding here. "All work is  
16           within the Applicant's existing right-of-way  
17           which conveys the right to construct and replace  
18           transmission lines in support of the reliability  
19           of the transmission system."

20                     Now, it's not true that all work is within  
21           the 1900 right-of-way, and in fact, a  
22           significant portion is in the new right-of-way.  
23           So that statement isn't a hundred percent  
24           correct either.

1 A (Bowes) So again, we have to transport materials  
2 to the existing right-of-way, and we have to do  
3 underground construction that was not part of an  
4 existing underground right-of-way. So I would  
5 agree with you that it's not complete and I'm  
6 not sure the context that they were referring to  
7 when they said "all work," but clearly we have  
8 to do work that's outside of this right-of-way  
9 even just for the transportation of materials  
10 and construction equipment.

11 Q Right. Sorry for interrupting. And that's what  
12 I was getting at was I believe in Mr. Plante's  
13 testimony, Applicant's Exhibit 8, page 4, line  
14 25, he uses the term "new easement," and then in  
15 your testimony you refer to Applicant's 6, this  
16 is where we started today, you talked about  
17 under current agreement of contract or its  
18 existing easements. And it appears that DES has  
19 failed to distinguish between those, and they've  
20 thrown them all together, perhaps thinking it  
21 was all in the existing right-of-way. Doesn't  
22 that look like what DES has done here?

23 A (Bowes) I certainly don't want to speak for the  
24 environmental regulator on this question.

1 Better for them. Not even an Eversource  
2 question.

3 Q Okay. Is it unreasonable, do you think, I mean,  
4 given that this Project is supposed to have an  
5 expected life of what was it, 40 years?

6 A (Bowes) I would hope to get at least 40 years  
7 out of this Project, yes.

8 Q And obviously, you depreciate it sooner for tax  
9 purposes, but for rate making purposes, don't  
10 you depreciate it to the life of the asset?

11 A (Bowes) Yes. I think in most cases, both the  
12 tax depreciation and the asset depreciation is  
13 consistent and is a 40-year lifespan.

14 Q So it's 40 years then. Yes. It's just straight  
15 line versus accelerated. My bad.

16 So I guess is the question is, the old  
17 cable from the 1900s or 1950s, parts of that are  
18 being left. When this Project -- but they're  
19 not being removed except for where they're being  
20 crossed. So my question to you is what's going  
21 to happen when this Project is no longer  
22 functional. Are we going to be left with  
23 concrete mattresses in front of my client's  
24 property the same way we're leaving portions of

1 the cable that I believe Mr. Irwin and CLF said  
2 contain or may contain lead? Isn't that, don't  
3 we start to accumulate permanent impacts by  
4 leaving these things in place and not removing  
5 them?

6 A (Bowes) So I think there's two questions in  
7 front of me now. The first is what happens at  
8 the end of its life. If it's not repurposed,  
9 again, as a transmission or distribution line,  
10 we'll work with the regulators at that time, the  
11 SEC or its successor, the New Hampshire DES or  
12 its successor, the Army Corps or its successor,  
13 and whatever the permit conditions are and  
14 requirements that the time we'll comply with  
15 those.

16 As with the case of all these previous  
17 cables, the New Hampshire DES has determined  
18 they shall remain in the bay. That's where they  
19 remain today. So we will follow the guidance of  
20 the environmental regulator and the regulations  
21 at the time of decommissioning.

22 Q Certainly, and I wouldn't expect a different  
23 answer. I guess what I'm getting at is this  
24 Committee has to decide whether impacts are

1           unreasonable or not, and what concerns me is  
2           these concrete mattresses could be in place  
3           forever. They may never be removed. And we're  
4           allowing that because of a potential concern  
5           that's temporary due to sediments during  
6           construction which is going to occur in one  
7           season. I don't remember the time period. But  
8           is that essentially the balance, the tradeoff  
9           here?

10        A    (Bowes) Well, I would also, to be complete in  
11           the response, the reason the concrete mattresses  
12           are there to protect and energize cable. Once  
13           the cable is deenergized, they serve no other  
14           use. So I mean, I can't speculate what will  
15           happen in 40 years, 40, 50, 60 years from now,  
16           but the necessity for them to remain in place  
17           will not be there. There may be environmental  
18           impacts to remove them that are considered too  
19           adverse, but there will be no technical reason  
20           to have them in place.

21        Q    That's right. But really, my question actually  
22           doesn't even involve removal. We're looking at  
23           concrete mattresses potentially being there  
24           aboveground in front of my client's property.

1           And those impacts are being allowed when it  
2           would be possible to build them below grade or  
3           to dig to the 42 inches of cover so that they  
4           don't have to be there at all. And isn't that  
5           essentially the tradeoff that this Committee has  
6           to decide?

7           A     (Bowes) Well, I think there's other stakeholders  
8           involved. Obviously, New Hampshire DES would  
9           have to grant a permit. I believe in this case  
10          it would be more of a dredging permit. Again, a  
11          question for the Environmental Panel.  
12          Technically, we believe that's probably viable.  
13          It's going to be a longer construction window  
14          within the bay. It's going to require different  
15          equipment. Obviously, different permit. It's  
16          going to have a different schedule to it. And  
17          it's going to have a different cost to it. So  
18          there are many other factors besides the visual  
19          impact of your client.

20          Q     That's correct. And another potential impact, I  
21          mean, you know, you know how shallow the bay is.  
22          I'm assuming you've seen it.

23          A     (Bowes) Oh, yeah.

24          Q     People have docks. My client has a sailboat,

1 and if something is 6 inches above grade, that  
2 takes out a big portion of the tide cycle when  
3 you can bring a sailboat in or not, when people  
4 can come in, and that's, that can interfere with  
5 the use. It will during construction, and if  
6 it's 6 inches above grade, that's going to  
7 continue for a long time.

8 A (Bowes) Hopefully, they're not bringing the  
9 sailboat in at low tide through there.

10 Q That's right. But this impacts the window in  
11 which they --

12 PRESIDING OFFICER WEATHERSBY:

13 Mr. Richardson, you're testifying again. If you  
14 could raise it as a question to them.

15 MR. RICHARDSON: I apologize.

16 BY MR. RICHARDSON:

17 Q Doesn't this impact the window on a permanent  
18 basis, you know, because it's going to  
19 interfere -- they can't navigate there, right?

20 A (Bowes) Again, I don't know any of the specifics  
21 of their craft to answer that. It certainly is  
22 going to be a constraint or there'll be a notice  
23 to mariners now with the new cable location as  
24 well as, again, we're assuming that concrete

1 mattresses are required. I hope they're not. I  
2 hope we can achieve the depth. If they are,  
3 they'll be clearly marked on the charts. The  
4 charts for navigation, that is.

5 Q Thank you.

6 PRESIDING OFFICER WEATHERSBY: Why don't we  
7 break for lunch and come back at 1:30, and then  
8 we will hear from Counsel for the Public, he'll  
9 ask his questions, and hear questions from the  
10 Committee and Applicant's rebuttal after lunch.  
11 We'll see you all at 1:30.

12 (Lunch recess taken at 12:23  
13 p.m. and concludes the **Day 3**  
14 **Morning Session**. The hearing  
15 continues under separate cover  
16 in the transcript noted as **Day**  
17 **3 Afternoon Session ONLY**.)

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C E R T I F I C A T E

I, Cynthia Foster, Registered Professional Reporter and Licensed Court Reporter, duly authorized to practice Shorthand Court Reporting in the State of New Hampshire, hereby certify that the foregoing pages are a true and accurate transcription of my stenographic notes of the hearing for use in the matter indicated on the title sheet, as to which a transcript was duly ordered;

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this transcript was produced, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

Dated at West Lebanon, New Hampshire, this 18th day of September, 2018.

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Cynthia Foster, LCR